



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ECONOMICS

**Reference: Uranium Royalty (Northern Territory) Bill 2008**

WEDNESDAY, 1 APRIL 2009

DARWIN

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**SENATE STANDING COMMITTEE ON  
ECONOMICS**

**Wednesday, 1 April 2009**

**Members:** Senator Hurley (*Chair*), Senator Eggleston (*Deputy Chair*), Senators Bushby, Cameron, Furner, Joyce, Pratt and Xenophon

**Substitute members:** Senator Crossin to replace Senator Furner on 31 March, 1 April and 8 April 2009

**Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Humphries, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, Marshall, Mason, McEwen, McGauran, McLucas, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Trood, Williams and Wortley

**Senators in attendance:** Senators Crossin, Eggleston, Hurley, Joyce, Ludlam and Pratt

**Terms of reference for the inquiry:**

To inquire into and report on:

Uranium Royalty (Northern Territory) Bill 2008

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**Committee met at 8.00 am**

**CHAIR (Senator Hurley)**—I declare open this second hearing of the Senate Standing Committee on Economics inquiry into the Uranium Royalty (Northern Territory) Bill 2008. On 4 December 2008 the Senate referred the provisions of the bill to the committee for inquiry and report by 30 April 2009. The bill seeks to apply a uniform royalty regime to all new mining projects in the Northern Territory, including those containing uranium and other designated substances such as thorium. This would be achieved by essentially mirroring the existing profit based mineral royalty regime under the Northern Territory's Mineral Royalty Act and applying it as Commonwealth law.

These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind all witnesses giving evidence to the committee that they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

If a witness objects to answering a question, the witness should state the grounds upon which the objection is taken, and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may also be made at any other time.

[8.01 am]

**COCKING, Mr James Andrew, Coordinator, Arid Lands Environment Centre**

*Evidence was taken via teleconference—*

**CHAIR**—I welcome Mr Cocking, who is appearing by teleconference from Alice Springs. Mr Cocking, have you an opening statement you would like to make?

**Mr Cocking**—Yes, I do.

**CHAIR**—Go ahead then.

**Mr Cocking**—Good morning, Senators, and thank you for the opportunity to appear before you by teleconference; I am in Alice Springs today. The Arid Lands Environment Centre is the peak regional environmental organisation servicing Central Australia. It has operated in this region for 28 years, working with the local community, government and business sectors on a range of local and regional environmental issues.

The issue of uranium exploration and mining in Central Australia is becoming one of increasing significance. It is generating a high level of concern amongst the local community members. The prospect of a uranium project near Alice Springs has resulted in hundreds of people attending rallies and public meetings on the issue which show no sign of letting up. Only last week, the NT Minister for Mining and Resources, Kon Vatskalis, addressed a capacity crowd of approximately 120 people at a public meeting on the issue of uranium exploration in the region.

There is genuine concern for public health and the risk posed by uranium mining and exploration, exacerbated by the fact that it is within the water catchment boundary 25 kilometres south of Alice. ALEC is well aware of, and concerned by, the ongoing leaks at Ranger uranium mine, the associated clean-up costs at South Alligator Valley, the ongoing threat of nuclear weapons and the continued uncertainty of radioactive waste disposal. Yes, there are more uranium exploration projects occurring in Central Australia.

ALEC has serious concerns about this bill, the Uranium Royalty (Northern Territory) Bill. Firstly, it is extraordinary that the federal government is focusing on issues associated with royalty payments rather than the environmental risks, the inherent Indigenous disadvantage from uranium mining, the lack of consent or confusion as such through the native title and amended land rights acts, not to mention the failure of the current royalty system to provide benefits to the majority, or even a fraction, of the Northern Territory Aboriginal population.

The Native Title Working Group has found that only 12 native title agreements delivered benefits to the native title holders out of a total of hundreds. It is obvious that the system is not working. The current system forces traditional owners to give consent or be cut out of the royalty negotiations. The amendments to the land rights act in 1987 were a disaster for TOs where, if consent is given to explore, consent is taken as a given for mining. There is no recourse

at all. The native title act forces landowners to consent to exploration in order to be included in negotiations for royalties. Failure to consent results in the project progressing on regardless, with the traditional owner receiving no monetary compensation and no say as to what happens on their country. This is a system geared toward establishing mines at the expense of Indigenous people, thus reinforcing Aboriginal disadvantage.

The uranium industry wants this piece of legislation to pass through so uranium is treated like every other mineral. The royalty system is the same, therefore it is not treated as something different; it is just another mineral. I am not assuming anything here, but even Blind Freddy knows that uranium is not like any other mineral. It is radioactive. It comes with long-term risks and management issues that no other mineral does. The nuclear industry wants to be treated like all other mineral industries. It wants to come in from the Cold War and come to rest in the Northern Territory where the government is friendly and the royalty system favourable for even the most marginal of uranium companies. This comes at a great risk to the health of people, the country and the groundwater systems of the Northern Territory, and the governments who will have to clean up after them.

I will now make comment on why a profit based system for uranium mining is not favourable and make suggestions as to what could work better. Firstly, I would like to acknowledge that this is relatively new territory for the Arid Lands Environment Centre and thus I cannot profess to be an expert in the economics and the distribution of mining royalties. However, ALEC is concerned that a profit based system provides surety and flexibility for the industry but fails to provide any surety for the Indigenous landowners.

The nature of the uranium market is volatile. It produces profits in the short term but leaves a legacy of long-term—of the order of 10,000 years—problems. A profit based system sends a signal internationally that even marginal uranium miners can have a go in the NT and not worry about the prospect of paying royalties unless a profit is turned; if not, ‘Oh, well, not too much loss,’ and then scurry on home. Meanwhile, a dirty big toxic hole requiring management for 10,000 years remains for the Aboriginal landowners to live with and the government to pay for its clean-up.

An example of this cost shifting is located just a couple of hundred kilometres from where you are meeting today in Darwin, at the South Alligator Valley, where companies no longer exist but the problems do. A profit based system shifts all the risk to Indigenous traditional owners, generally people who do not have the capacity to shoulder much risk. It is shameful to expose some of the most vulnerable people to the volatility of the uranium market, especially in this era of economic uncertainty.

The benefit of an ad valorem system is that there is some monetary certainty for traditional owners through the life of the project. However, the risks associated with uranium mining remain. If the federal government is serious about establishing a royalty system that works, this legislation will not be passed. Rather, there will be a full investigation into a system where a dedicated, quarantined royalty is paid on top of existing bonds, and this quarantined royalty would pay for clean-up operations and environmental rehabilitation so it is not required to come from the public purse.

Further to this, I recommend an investigation into the failure of the native title mining agreements to deliver benefits for Aboriginal people, a dedicated inquiry into the deficiencies identified in the current Native Title Working Group paper. There is no sense in replicating the Northern Territory government's existing royalty and mining system that is not working. Digging up more holes is not addressing Indigenous disadvantage, especially if these holes come with radiation poison. What is needed is a meaningful way to address Indigenous disadvantage in the Northern Territory. The Northern Territory emergency response has failed to deliver this and so will the uranium industry framework. Thank you for the opportunity to speak about this.

**CHAIR**—Thank you, Mr Cocking. You were talking about how the profit based royalty is failing to provide surety, as opposed to an ad valorem royalty method, which you say would provide some certainty for the life of the mine, and you are talking about quarantining a royalty. Are you talking about quarantining the existing royalty payments—

**Mr Cocking**—No, on top of the existing royalty, so—

**CHAIR**—Adding a royalty payment for rehabilitation?

**Mr Cocking**—Yes—a company would have to pay it upfront.

**CHAIR**—Would this just be for uranium mining you are talking about, or for mines generally?

**Mr Cocking**—Uranium mining would be the most obvious place to start since it has a whole lot more risks and hazards associated with it.

**CHAIR**—On the ad valorem method providing more certainty than the profit based royalty, why do you believe that that is so?

**Mr Cocking**—Because, from the word go, money will be getting paid to the traditional owners. It is not based on a profit system where the traditional owners could be waiting for years to receive any payments until the company becomes profitable. It is also a lot simpler to account for because it comes out of total revenue of the company rather than just the profit system. There is a history of royalties not being paid under this current system and so there is no recourse for traditional owners to access those funds. These are people who need the money, who are relying on it, and if they are not getting it from the royalties then that is going to put them at a severe disadvantage.

**CHAIR**—Can you explain to me why it is so important that the royalties get paid from the beginning of mining? Surely if there are additional funds coming in, it is just as well for the Aboriginal community to start to receive funds when the mine is established, profitable and much more likely to be on a long-term footing. Why do the royalties need to come in as the mine starts?

**Mr Cocking**—As soon as there is disruption to the land, the Aboriginal people there feel the effects of it. So, if it is not being paid for as they are going along with it, there is no guarantee that it can happen. For instance, Xstrata did not pay royalties for the McArthur River mine from 1995 to 2006. So there are opportunities for companies to creatively change the way that they do

their books so they do not record a profit and so they do not have to pay royalties. That is the reality. The current economic climate is largely due to companies overextending on lots of risk and marginal lending, and it is similar with the mining industry here. If marginal companies are allowed to setup and then fail, they would not have to pay royalties to the traditional owners and the traditional owners would be left with a gaping big toxic hole to deal with, and the government would have to pay for cleaning it up.

**CHAIR**—Apart from Xstrata—which we heard about yesterday from other groups and which we will explore further with the Northern Territory government this morning—do you know of any other non-uranium mines that have not paid royalties?

**Mr Cocking**—Not off the top of my head.

**Senator LUDLAM**—Thanks for joining us. You have made some pretty strong statements in your submission that reducing the burden of paying royalties in the way that this bill proposes will allow some fairly flaky start-ups to get into the industry. Can you explain why you think that is the case?

**Mr Cocking**—It is essentially providing ability for companies and multi-national corporations to hedge their bets and say, ‘This is a possibility here—we could sneak in and get a mine online,’ and whether or not it turns a profit is really going to be up to the market and up to their ability and management of the mine. So we are facing the situation in Central Australia where there is heaps of exploration going on—of the order of hundreds of different exploration projects looking for uranium—however, you have a situation where the economic decline and credit crunch has forced a lot of these companies to pull out of the projects while they cannot get capital. So, if we allow marginal companies to come in, do the exploration, start mining and then fold, they are not going to have to pay for it. Therefore, the burden and clean up will be left with the traditional owners and the government.

**Senator LUDLAM**—There was a report produced by the native title working group in December 2008 which was pretty damning of the way agreements have let Aboriginal people down. They name about 12 agreements that have brought genuine benefits for Aboriginal communities and a vastly larger number that have not. Going somewhat outside the terms of this bill, do you think it is time that the whole agreement-making process was reviewed?

**Mr Cocking**—Yes.

**Senator LUDLAM**—Can you tell us, from the point of view of Central Australia, what the key factors of such a review might encompass?

**Mr Cocking**—How the process could work better?

**Senator LUDLAM**—Essentially. If we were doing this well, what would the system look like?

**Mr Cocking**—The fact of the matter at the moment with native title legislation, essentially, is that traditional owners or native title holders have to say yes to exploration, especially, in this case, uranium exploration. They have to say yes to it if they want to be involved in the process.

If they say no to exploration, they are cut out of the process and not allowed to negotiate for any royalty payments. Similarly, with the land rights act, traditional owners, if they say yes to exploration—if they say, a few years down the track: ‘We aren’t liking the way this company’s operating. They aren’t cleaning up after themselves,’ or there are concerns about the health of the community, water systems, or whatever—and they get to the mining stage, because they said yes at the exploration stage, they are locked in and they cannot say no. If they say no then they are going to have a reduced ability to negotiate.

For those reasons, traditional owners are not put on a level playing field from the beginning. It is a complex and complicated system of profit based royalties anyway. So it is difficult for traditional owners to navigate their way through how they can get the benefits of mining on their country. So the fact that it is not a level playing field and the fact that companies are currently required to pay bonds do not cover the extent of 10,000 years of cleaning up after themselves. I think there needs to be an investigation into the native title working group paper looking at why the system has failed, rather than fitting uranium into a system that does not seem to be working, which is just really quite dangerous when you think about the impact and effects of the nuclear industry and uranium mining on country. Looking at the problems and issues that we are currently faced with, why put uranium into the mix there as well? If it is not delivering for Indigenous landowners now, how on earth is fitting uranium into the same system going to make it better for Aboriginal people, not to mention, more broadly, Territorians in general?

**Senator LUDLAM**—Thanks very much for your submission.

**Senator EGGLESTON**—There are bauxite and manganese mines on other Indigenous land in the Northern Territory, aren’t there?

**Mr Cocking**—Yes.

**Senator EGGLESTON**—How are royalties paid on those mining operations?

**Mr Cocking**—Which ones?

**Senator EGGLESTON**—We are talking about the bauxite and manganese mines.

**Mr Cocking**—All the other mines.

**Senator EGGLESTON**—Yes.

**Mr Cocking**—As far as I am aware, it is currently a profit based system. I could not answer specifically on those mines, but I understand that the NT royalty system is based on a profit based system; hence the attempts to fit uranium into the same system so it is not isolated as a different mineral—which it is because it has got very different properties to manganese, bauxite, iron ore and gold. It has got a lot more hazards and risks associated with it. However, I cannot say exactly how it works on those particular mines, but I understand that it is currently a profit based system that has not been addressing the inherent Indigenous disadvantage.

**Senator EGGLESTON**—It seems that, apart from uranium, all other mineral operations in the Northern Territory pay royalties on a profit based system. Is that correct?

**Mr Cocking**—That is my understanding, yes, and that is a system that has been failing to deliver for Indigenous landowners.

**Senator EGGLESTON**—Yesterday you mentioned McArthur River and said that no royalties were paid for a decade. We dealt with this general issue yesterday, and we will certainly be exploring that with the Northern Territory government. One of the points that was made was that, regardless of the fact that a mine might be owned by an international company like Xstrata, each individual mine owned by that company nevertheless has to submit financial statements, which are available, and it is quite obvious whether or not they have made a profit or a loss when that is done. So it will be very interesting to see what the Northern Territory government has to say about McArthur River.

**Mr Cocking**—For sure.

**Senator EGGLESTON**—I just wondered whether you had read the Northern Land Council's submission to this inquiry, because in that they say that your main point has been that, under this profit based system, Indigenous people would miss out. The Northern Territory government's argument is that it has adopted a standard approach to mineral royalties because of administrative advantages and simplicity. The Northern Territory Land Council, in their submission, say that both systems provide a similar amount of royalties over the period of a mine and bring similar benefits thereby to the Indigenous people. What is your comment on that?

**Mr Cocking**—I would say that the concern that we would have about the profit based system, if you look at the life of a mine, say, over—

**Senator EGGLESTON**—No, I mean the Northern Territory Land Council's comment.

**Mr Cocking**—That they provide about the same amount of money?

**Senator EGGLESTON**—Yes.

**Mr Cocking**—That could quite possibly be true. However, a lot of the traditional owners and the people who would be signing off on the owner profit based system may not be seeing the benefits of it because of the time it takes for the mine to get online. Plus, there are a lot of fluctuations in that, depending upon the market. Some years it will be good and big and they will have lots of money, and then other times it will be slow and there will not be so much money. Those fluctuations and uncertainties are going to have drastic implications on people's lives in communities where they are essentially brought into the boom and bust cycle that the mining industry comes with.

**Senator EGGLESTON**—Would that not apply to any shareholder or beneficiary from mining? There are cycles in that industry. Why should the Indigenous people, who are getting money from other sources anyway—from the federal government, state government—and who are benefiting from mining operations not go through the same cycles as any other shareholder would and as the companies themselves do?

**Mr Cocking**—Well, essentially, there are a lot more financial buffers there for investors and shareholders in mining companies. The investors and shareholders are not actually having to live with the conditions imposed by a mine, whether that be lowered quality drinking water, the dust associated with the mine, or the implications of having mines in town. If you look at some of the issues in remote communities such as Nhulunbuy and things like that, especially with the generally male workforce in the areas, the investors do not have to deal with the conditions imposed by a mine, whereas the Indigenous people do and they do not normally have much recourse to deal with that. It is their country. They cannot just up and leave and move to somewhere else. It is their country, and if they are born there, well then, they have to die there. So it is about the fact that they do not have the flexibility and financial buffering that mining companies and investors in mining companies have.

**Senator EGGLESTON**—Is it not a reality, though, that very few mines are adjacent to communities? They are usually a fair way away. Aboriginal lands are usually fairly large. The other thing is that the mining industry is committed to providing jobs for Indigenous people now. At Argyle in the north of WA, I think something like 23 per cent of the workforce is Indigenous. Isn't that a benefit?

**Mr Cocking**—It is a benefit, but the same issue that comes up every time is the lack of choice given to Aboriginal peoples in that they are told, 'You can be part of mining or you cannot be part of it at all.' I think that that is something that we really need to deal with as a nation. I think there is a whole lot of scope there, and that is one of the biggest problems with a lot of the exploration and a lot of the way that Indigenous engagement is happening here, especially in central Australia, is that there is not a choice being given. Aboriginal people are being told that uranium mining is the only way that they can move forwards and the only way they can move on in life, and that is certainly not true. They are the words of the uranium mining companies wanting to extract the uranium. It is not about creating jobs for Aboriginal people; that is just the sweetener for everybody else to say, 'This company is providing jobs for Aboriginal people.' Nobody has ever sat down and said, 'Is that actually what Aboriginal people want?'

**Senator EGGLESTON**—The arguments you have put up would apply to any sort of mine, whether it were gold, bauxite, manganese iron, or whatever.

**Mr Cocking**—But we are talking about uranium, Senator.

**Senator EGGLESTON**—Well, I am asking the questions. I am not trying to develop a question, so please listen. The argument you have put up would apply to any kind of mining on Aboriginal land. Uranium is just another mineral which fits into the general modus operandi of mining anywhere in the Northern Territory for any mineral. Why, if that is the case, are you selectively objecting to a royalty regime that applies to every other kind of mining not applying to uranium, when, in fact, the consequences for the local communities and the royalty stream, we have been told by the Northern Land Council, are much the same over an extended period? I do not follow your argument at all. There is no consistency there.

**Mr Cocking**—The thing is that uranium, number one, cannot be considered as 'just another mineral,' just like gold, manganese, copper or any other mineral. It is radioactive. It causes genetic damage when it comes into contact with human and other organic cells. You cannot say

‘Uranium is just the same as everything else,’ because, quite obviously, it is not. It causes cancer; it causes long-term problems in rehabilitation of the country.

**Senator EGGLESTON**—We understand those things, with respect, for radioactive material. But we are talking about the regime for royalties. We are not stopping uranium mining. We are just talking about the way royalties are charged, and I do not understand the lack of consistency in your argument in isolating uranium mining royalties from the royalties which are paid for other minerals. I do not really see the consistency in your argument.

**Mr Cocking**—The current system has not been working. If you look at the native title working group paper, only 12 agreements were considered beneficial out of hundreds. It is obvious it is not working, so why would we put a potentially dangerous element into a system that is already failing to provide the benefits that it was anticipated would be brought to Aboriginal communities?

**Senator EGGLESTON**—Thank you. That is all.

**Senator CROSSIN**—I have a question I want to ask you about a comment you made in your submission. If I look at about the fourth or fifth paragraph down, you made a statement that uranium being different, as in long-term contamination, clean-up and environmental issues, means that therefore the unpredictability of a royalty system is not beneficial. Are you putting to us that there needs to be a more consistent guarantee of benefits from the mine in the form of royalties in order to deal with the nature of uranium?

**Mr Cocking**—That is true.

**Senator CROSSIN**—For mining companies who wanted to have an agreement with Indigenous people over the use of their land would not the issue about spills, clean-up, contamination and long-term rehabilitation be the subject of a separate agreement? My understanding is that the fallout from uranium mining would not have to be met by the cost of royalty payments. That would be separate.

**Mr Cocking**—Yes, it would be separate. On top of an environmental bond that would be paid, a quarantine royalty would be paid separately to be sent to a fund that the government would administer, to ensure that if there were a spill or more than acceptable irreparable damage to the water systems or land, that the money would be there to pay for it. Separate to that, there would be royalties paid to the traditional owners as a regular payment.

**Senator CROSSIN**—So explain to me what you mean by:

It is unacceptable to shift the health, social and environmental risks to vulnerable Indigenous communities ...

**Mr Cocking**—Looking at the volatility of the uranium market, in November 2007 it was about US\$130 per pound and currently, a year and a half on, it is down to US\$43 per pound. That is quite a big shift. Big companies with big financial capital can buffer those sorts of losses to a certain degree. Obviously, as we look at the economic system, a lot of the banks have failed to cope with toxic debt. Aboriginal people are being exposed to this and they are not able to move away from the threat. They do not even have the money to get into town to buy food

sometimes; then they have to carry the burden of the environmental and social impacts of mines, not to mention the volatility of the uranium market on top of that. In developing countries where people have been exposed to the volatility of the market on the ground—whether it is through cash cropping or whatever, with structural adjustment policies and things like that—the people who suffer are the poorest. Indigenous people in Central and Northern Australia are probably the most disadvantaged in terms of health implications and the like. Forcing them to cope with the volatility of the uranium market on top of that is going to create more problems for them. I think that risk should be on the backs of multi billion or multi million dollar multinational mining corporations, as opposed to on those of some of Australia's poorest people.

**Senator CROSSIN**—The issue we are also trying to grapple with here is that when profits in the mining industry vis-a-vis uranium are doing pretty well—and I am assuming companies are in the market because they want to make those profits—there is more capacity for Indigenous people to gain from this during those times. If you have an ad valorem and you are just striking a standard percentage year in and year out, isn't there, under this system, capacity for Indigenous people to actually get more benefit when the profits are greater than what that percentage rate would be?

**Mr Cocking**—This is being framed as an either/or argument, but I think there needs to be somewhere in between where people can negotiate. There does not have to be a ceiling limit placed on these sorts of things. An ad valorem system gives more certainty. There should be the option for people to negotiate so that when things are good they can get more out of it. We are focusing on the uranium royalty system as we would like it to be, but there is concern that it is not going to provide the necessary benefits. When it is good it is good, but long term there is always that risk. If a marginal mining company comes in and does not post any profits or has some parent company that it is selling its resource to at a cheaper rate so that they do not have to post the profits, there are going to be issues. Uranium does not allow for mistakes. It does not allow for people to second-guess these sorts of things. A profit based system could be really good monetarily at some times. However, the global situation was good for 10 years but now it is not going to be good for who knows how long. It is the same with uranium—it might be good for a few years but, long term, if that company fails to manage itself properly then we are going to end up with more problems such as those with South Alligator valley and Ranger, where there are leaks into the limestone surround. That is going to have to be dealt with—it is going to have to be dug up and fossil fuels will have to be burnt to decommission these mines. We are losing the point of the argument when we just look at whether it is either going to be an ad valorem system or a profit based system. There needs to be investigation into why the system is not working currently; then we can sit back and try to address how we go about it. But first we have got to find out why the current system is failing to deliver before we go into an either/or system. That is simplifying it too much and we need to look at what is not happening and what needs to happen.

**Senator CROSSIN**—Thanks.

**CHAIR**—Thank you for taking the time to give evidence to the committee this morning.

[8.37 am]

**BLANCH, Dr Stuart James, Coordinator, Environment Centre Northern Territory**

**CHAIR**—Welcome. Do you have an opening statement you would like to make?

**Mr Blanch**—Yes, a short one. I have only been in this position for a few months. I point you to our submission written by one of my colleagues. I note there has been a lot of discussion over the broader issues around uranium et cetera that I will only touch on. The Environment Centre started in 1983 and a lot of its history has been around passionate dislike of the uranium industry. A lot of the members that I service retain that. They are not largely convinced by the arguments that uranium is a global-warming solution. I note that my daughters, who are seven and eight, probably will outlive the uranium age, based on the best estimates of the lengths of high-grade uranium. A similar thing might be said of the gas industry here. Whilst this is important to debate, it is a bit of a shame that we have got so many important people here and that so much of Darwin is involved in this. People who work in the sector are focusing on shorter and medium term solutions to things that are very relevant. I will be dead by mid-century but my daughters and their daughters will not. As I understand it, we will still have sun power, wind power, and thermal power from geothermal sources in the future. This is important to debate and we will contribute to it, but that is just a comment on where as a nation we are putting some of our efforts at the moment.

It seems to me that the argument here is about the relative merits of harmonisation between ad valorem and profit based systems and between harmonising uranium royalty payments with those under the Territory mining legislation versus the benefits of greater transparency and more regular, although perhaps a lower quantum of, funding to Indigenous communities over the longer term and after the life of a mine. I acknowledge that there have been improvements to the mining sector and I welcome them. I have much to do with many miners. There have also been improvements in Indigenous employment, and Senator Eggleston pointed out the example of Ord. There have been improvements in monitoring, mine closure performance and self-assessment by the mining industry, but the proof is in the pudding in terms of what the merits of the existing profit based system are for the Territory for all minerals except uranium at present, and those merits are well known. There are people who benefit a lot from some mining royalty payments in areas around some of the mines. However, if you have travelled to, read about or talked to people who live around and are involved in their communities on traditional lands or who have gained some sort of employment in Kakadu National Park, Gove, Borroloola and other areas in the Territory, including in Central Australia, it is not all a great picture.

I acknowledge that there are benefits there from people receiving large amounts of money through the royalty payment when miners are making money. But it is fair to say that those benefits often do not flow broadly beyond the people upon whose traditional lands the mines exist, people who are in positions of power, whether it is through land councils, local Aboriginal corporations, there are long-term investigations of corruption, nepotism and favouritism within Aboriginal communities to do with royalty payments, not just for mining.

I think in terms of the committee weighing up the merits of ad valorem versus a profit based system, I would encourage you not to think that all is working well for the existing profit based system. I see merits in terms of governance and harmonising administrative processes as a principle, but I do not think they should be taken as outweighing other benefits. I would be cautious about arguing for consistency for consistency's sake. I think that is very important.

Senator Hurley, you noted that in the Northern Land Council's submission they say that on balance there may not be much financial difference over the life of a mine royalty payment system between ad valorem and profit based, and that is true. If that is the case, why would the economic arguments for moving towards a profit based system be seen as so meritorious as to outweigh the acknowledgment by the NLC, who are not necessarily speaking for traditional owners in this sense? Ad valorem may deliver a relatively similar quantum of funds over time, but by way of a more moderated payment, say, per annum.

After yesterday's hearings I spent a fair bit of time this morning on the web looking for examples of offshoring profit. I have friends who have worked in the mining and legal profession whose job it is to offshore profit, and they are very open about. It is a standard way of doing business and you are not going to progress far in that profession if you are not trying to maximise your bottom line and this is a benefit to global corporations. The trouble is that a lot of that information is commercial-in-confidence or it is cabinet-in-confidence through governments because of Treasury royalty payments. They are protected by the corporate veil of secrecy and often by FOI. The only other example I could think of, and I tried very hard to find one, is not a mining but a forestry operation on the Tiwi Islands north of Darwin. It is not a global company. Great Southern Ltd have got a partnership with the Tiwi Land Council. But there is a similar principle here that the Tiwi people for long periods of time did not receive any royalties, as far as I am aware from reporting in the press and acknowledgment by government and the company, because they were allowed through the contract only to deduct the cost of barging the logs to China from their profits. So, in fact, the Tiwi people did not receive significant or I believe any royalty payments for a long period of time. I think that principle applies also to this matter, with respect to a company where the Territory government's mining regulations for its net value accounting system allow for significant ministerial discretion. If a company is able to claim that its shipping costs for the uranium ore, for example, offshore can be deducted from how much it would pay in royalties, I could see that we may face a similar issue in terms of traditional owners receiving less money than they should, and perhaps would, under an ad valorem approach.

I acknowledge that there are financial Indigenous benefits from existing mines in the Territory. But as I said before, often they are to only a few people. I think it is fair to say that often, particularly when a lot of money appears, say, from very a profitable period, whether it is mining or another agreement, there is a lot of talk in town and in the media but people in communities are very disappointed when a lot of that money is wasted. It is not well spent because it comes as a windfall. If you are living in essentially poverty in a very disadvantaged community and you get money, it makes sense that you may spend it poorly. That is not saying all will, but if you had a more regularised approach to funding people, particularly people who may not receive as much money from direct royalty payments to the ancestral land owners, I think that would have, on balance, merits for other people who would receive less funding at present.

Irrespective of whether a profit based or ad valorem based methodology is used, I encourage the committee to examine what sort of other financial arrangements could be used to store

money for long-term environmental management because, as others have said, uranium is radioactive. It has long-term management and rehabilitation costs associated with it, which are different to other polymetallic mines in the Territory. I think that would go some way to helping people feel that there is a greater protection for communities and ecosystems that might be disadvantaged by a uranium mine after mine closure. I will leave my statement there. Thank you, Senator Hurley.

**Senator EGGLESTON**—Dr Blanch, they were very interesting comments, I have to say. I agree with you about the problems of nepotism and sometimes corruption in Aboriginal communities. It is a very difficult problem to deal with. In the Fitzroy River Valley there are 42 communities, and so that no one community dominated the flow of profits—they have a lot of commercial enterprises—they set up a council in which every community has two representatives so nobody could dominate. But it is a very broad and general issue. Do you have any thoughts about the general way of dealing with these sorts of problems where only part of an Indigenous group benefits from the cash flow from royalties, commercial operations or whatever?

**Dr Blanch**—I guess I would have some broad comments. Having a sort of democratised approach like that does not sit well with many, including some of the people I know, senior traditional Aboriginal law men, because that is not necessarily the way they run their communities. If you have senior women involved I think that would help. I do not know how you legislate for that but, in effect, when you talk to a lot of women who live around areas where there is large development in the Territory, whether it be mining, forestry, agriculture, marina developments here in the harbour or whatever, they often have quite a different view to the men. So some sort of gender balance or requirement of different clan estates to be represented could be useful. I note that in the Tiwi Islands, I am not sure if you are familiar with those, Senator Eggleston, north of Darwin, there is a longstanding difference of opinion between communities there. A lot of women have written to previous federal environment ministers saying they are not happy with the forestry there, and men on the Tiwi Land Council have objected to the approach of being booted off in one way or another.

I agree it is hard. I note from the model adopted around various mining communities in the Territory, that unless you can break the nexus between funding going primarily to the senior traditional law men, who often are members of Aboriginal corporations or on land councils, despite the best will in the world, the evidence would say that money does not stretch to the people who are really in need.

**Senator EGGLESTON**—Thank you very much for those comments. That is the real issue that needs to be addressed, I think. What about the sources of funds for Aboriginal communities? Mining royalties are just one of many sources. I think that is a fair comment. Would you agree?

**Dr Blanch**—I do not know the detail. I think a lot of it is social welfare, of course.

**Senator EGGLESTON**—Government.

**Dr Blanch**—Government. I am not sure where that question is going. Obviously, mining royalties are important in those areas where there are large mines. My experience in talking with Aboriginal people who live in areas where there are mines is that they are not just there to mine.

They may be working part time in mines, or some of their family are, and that might be a regular income as employment, but I am yet to meet an Aboriginal person who sees himself as a miner; I see an Aboriginal person who lives on the land. They want to stay on their land and bring up their kids on the land, and help their communities get away from the grog or the violence, so they might mine for part of the time, often on a contractual basis. But a lot of the other time they are on country, increasingly earning money on Caring for Country work, whether it is as paid rangers or on a fee-for-service basis from, for example, AQIS, doing biocontrol work on the northern coastlands. I think that will grow, and I suspect that across much of the remote territory, whether up here in the Top End or down in the desert country, in areas that are more than 50 or 100 kilometres away from a large mine or another area of large economic development, most of the income earned on a regular basis is obviously social welfare, but increasingly that is social welfare previously under the CDEP scheme and now more for working on Caring for Country programs from the environment department. So the relative amount of money that people earn on those estates from mining will, I think, decline over time. It will probably be a mainstay, but I do not meet too many Aboriginal people who say, 'I would prefer to be mining than out on country fishing or with my family.' So they are trying to get the balance and are making hard decisions, and it is a difficult arena for them.

**Senator EGGLESTON**—You asked me where that question was going and you have sort of provided the answer, and that is that the income for Indigenous communities comes from social security, if you like, through government grants and programs which provide jobs in some cases, like health jobs, in arts centres and so on, and various other things. The point I was trying to make was that royalties are kind of an add-on extra to those communities which just happen to have some sort of mining operation there and that, usually, communities do not totally depend on royalties for their income.

**Dr Blanch**—That is true. I think that actually goes to the point about the relative merits of ad valorem versus profit based, because if you have a lower quantum but a guaranteed regular income from an ad valorem based system, it does not mean that you have no options for income. It means that you know you can make your car repayments or get the kids to school or pay rent, but it is not necessarily the cream on the cake. The espoused benefit of a profit based system is that now and again you will get a lot of money, and you will. But you do not have to spend long around mining communities to know that a lot of that money is not well spent, and it is not too far down the track that they are back to seeking more funds. Of course, I do not want to generalise, and that might seem like a generalisation that everyone is the same, and that is not true at all, but you do not have to spend too long here reading the *Northern Territory News* and visiting communities to know that royalties, whether from mining or forestry or other areas, are often seen as toxic. That is a great shame because it is one of the few dedicated sources of funding from the private sector to large areas of Aboriginal estate.

**Senator EGGLESTON**—Okay. Have you read the Northern Land Council's submission—

**Dr Blanch**—Yes.

**Senator EGGLESTON**—and their comment that, over a long period of time, you get about the same amount of money from either the ad valorem or the profit system? Do you have any comment on that?

**Dr Blanch**—First of all, I would note that it is written by the land council, which, on some of these matters, I suspect, does not speak for all traditional owners around mine sites. They have a very different view. But I understand that that is the council's submission. I would turn that argument on its head, Senator Eggleston, and say that if people who are supporting a profit based system say that economically it is a better deal, then I would say that the Northern Land Council's submission would counter that. Irrespective of whether it is profit based or ad valorem, it is how the money gets to people who are more disadvantaged, who are currently cut out of the existing profit based system.

I notice also that the land council made the point that people who are going to benefit from these systems are often elderly and often men—or they implied they were male decision makers—so they wanted the money upfront and therefore if you were developing a uranium mine, which might take 10 years from whoa to go, they were not going to get any money. So I think they were internally conflicted on that matter. Perhaps some of the senior law men who stand to benefit from future uranium mines, if they are approved here in the Territory, are arguing: 'Well, where's my slice? I'm not going to get it before I die.' I think that is important—I do not think you can overlook the merits of getting money early to Aboriginal communities during the long start-up period, and I just do not see how the profit based system, as currently used in the Territory, can do that.

**Senator EGGLESTON**—Thank you.

**CHAIR**—Senator Ludlam.

**Senator LUDLAM**—Thank you very much for your evidence and your submission this morning. The Northern Territory government and the minister's second reading speech note that this bill originated, in part, from the Uranium Industry Framework, and there are a number of stakeholders represented there. Does the ECNT have a seat at that table?

**Dr Blanch**—Not that I am aware of, and I would be surprised if we are allowed in the door. Our members will want us in there, basically.

**Senator LUDLAM**—Okay. Are there any environmental interests in the UIF?

**Dr Blanch**—I am not aware of any. As I said, I am not from a uranium background in the environment movement. I gather from the comments from the submissions and other environment groups that it is not seen as a body we want to be involved in, nor would the Uranium Industry Framework necessarily want us there at all. Obviously, the UIF is a throwback to a previous government, and it was doing the government's bidding and trying to support the government's agenda to have more uranium mining. That was the policy of the day. It is curious that what has come out of the UIF and its support for a royalty based system is driving the current government's agenda. I think it is curious.

**Senator LUDLAM**—That is a polite way to put it. You have made some points in your submission on Xstrata. How did they manage to avoid paying royalties for 10 or 11 years?

**Dr Blanch**—As you would be aware, Senator Ludlam, the Territory's history is around cows and mines, and over long periods of our history that is where a lot of our money has come from,

particularly in remote areas. A large proportion of our population is very keen to get to statehood, and that certainly has its merits. Part of the rationale for getting more money into the Territory, other than through GST receipts and Commonwealth grants, is: 'We can't stand on our own with a \$3 billion per annum budget and 20,000 people; therefore, we need miners to come here, preferentially over the Kimberley, over the Pilbara, over the north-west province in Queensland.' Therefore, you do a deal that gets the money in the door, and not necessarily much through mining.

I read through some of the media again last night in relation to royalties. I noticed the *Northern Territory News* carried an article on 24 October 2007 that said that 'mining royalties contribute two per cent to the Territory's \$3.3 billion in revenue'. It is not a large amount of money, given that it is, I think, a \$6 billion-plus industry. I think mining companies are very good at arguing, 'We won't pay much royalties. The benefits to the community and the treasury is through employment, through flow-on through the community, and having bases here to process ore, for example, over on East Arm or Middle Arm.' Governments here, of either persuasion, do not feel very confident in saying no to a big mining body. You could see the government tearing itself into pieces over McArthur. They did not like Xstrata, but they did not feel like they could say no. Why? Because they knew they were going to get royalties out of them at last, and some employment benefits.

Going back to your question, our economy is much more like a developing nation economy than a First World economy. 'We want big money coming in the door,' is the argument. 'We need that money to become a state; we need to stand on our own two feet so we are not bullied by Canberra,' is the basic reasoning. 'Therefore, we need those mines to be set up, even if they do not pay much royalty.'

**Senator LUDLAM**—But what it amounts to, then, is the mining companies effectively playing the states and territories off against each other.

**Dr Blanch**—They are obviously jurisdiction shopping—you can see they have the gas between the Kimberley and Darwin Harbour here. We in the Territory are in a weak position to say no because our mentality is that of a frontier development state. We will not have as strong environmental regulations as other jurisdictions, so we accept proposals like Xstrata, even though I think a lot of people in government did not want it because they thought it was bad.

**Senator LUDLAM**—Do you know, off the top of your head, what royalty regime applies in WA and Queensland?

**Dr Blanch**—I am not broadly familiar with that. In Tasmania there are ad valorem and profit based systems for lead in Tasmania. In New South Wales, I think it is all ad valorem. There seems to be a mix of models in the previous legislation. It seems that the Territory is a stand-out—as far as I am aware, and I stand to be corrected—in that we are trying to completely harmonise around profit based systems. I could be convinced of the argument of moving uranium to a profit based system of royalties if the evidence for all the other mining sectors here in the Territory was that it was a great thing for the environment, great for our economy and great for Indigenous communities. The fact is it is a very mixed bag, and there are a lot of big crosses against how the current mining industries work in the Territory in terms of benefiting Aboriginal people and putting money into our Treasury.

**Senator LUDLAM**—I notice some of the reporting makes it sound as though the entire royalty regime is behind a curtain in the NT. How much do we actually know about what individual companies are paying in royalties to the Territory government?

**Dr Blanch**—In my understanding from talking to the people in the mines ministry and in the media, we know a little. I am not sure that we know less than in other jurisdictions. It goes to your earlier question—we want to make sure that we get the mines in the door and set up even if we lose money, in terms of what we could otherwise get in terms of royalties. We do not have, for example, compulsory public release of mine management plans. Even though people in government assured me when they were going to approve it that they would be using the best endeavours to encourage Xstrata to release the McArthur River mine management plan, a lot of that is not commercial-in-confidence at all. They did not change the law to mandate that the mine management plan should be made public. Because such a large and potentially very damaging and high-risk venture did not have a greater level of public scrutiny on the mine management plan, mines which are less in the public eye would be less likely to suffer the force of government mandating greater public scrutiny. The corporate veil of secrecy and, largely, the Treasury veil of secrecy remain. They do not want people like us, or Aboriginal communities who are against the mine, to have access to information which might help shoot it down in court or in the space of public opinion.

**Senator LUDLAM**—And then they quote the public interest back at you as the reason for that veil! The NT Resources Council said in their submission:

... the immediate effect of the Bill will be to reduce administrative costs rather than effect broad economic advancement.

**Dr Blanch**—It is not a ringing endorsement. I know Scott Perkins quite well and find him quite reasonable on a lot of matters; on other things we disagree quite a lot. I do not think he would have put that submission in lightly. There are not a lot of benefits to the resources sector for this, from what Scott is saying. The absence of a lot of start-up companies here today and yesterday, and also Energy Resources of Australia's submissions and comments yesterday, do not add up to a very impassioned, ringing endorsement of moving to a profit based system.

**Senator LUDLAM**—Did the ERA actually present to the committee?

**CHAIR**—They were here as part of the Resources Council.

**Senator LUDLAM**—Do you concur with ACF's proposal that there be funds cordoned off or quarantined for environmental rehabilitation?

**Dr Blanch**—Yes, I think it is a great idea. A lot of fishermen, Aboriginal people and, generally, community peoples would say, 'If we have to accept another mine, we need to have a lot of money in the bank if the miners go broke or the mine shuts down.' I am not sure if you are familiar with Mount Todd. It is a disused gold mine in the Daly River catchment that puts a lot of polluted water and deposition into the Daly River systems. It is a bit issue because the mine started before the mining royalties regime started, so there is no big bucket of funds. The Territory government is in the position of putting millions of dollars into stop-gap measures. But in the longer term they have no other option because we do not have much money—we are in the red financially as a government—to try to bring another miner along to mine the ore body or

the tailings and pay for the rehabilitation. If we had a large environmental management trust fund, that would help address some of those legacy mine issues and future ones where the bond turns out not to be adequate.

**Senator LUDLAM**—Thank you very much.

**Senator CROSSIN**—Are you aware if the Uranium Industry Framework is still alive and operating?

**Dr Blanch**—No, I am not.

**Senator CROSSIN**—Yesterday Mr Paterson from the Minerals Council said he had attended it, but I failed to ascertain whether it was a body that still existed.

**Dr Blanch**—There are other people in the room who might be to answer that better than I can.

**Senator CROSSIN**—I am told it is still functioning. I take it from your comments about the royalty payments and from having a quick look at the articles you have referred to in your submission from the *Northern Territory News* that there is no public disclosure in the Territory of what royalties are paid to the Northern Territory government from each company and each mine. Is that correct?

**Dr Blanch**—That is correct.

**Senator CROSSIN**—What I am trying to grapple with in this legislation is what safeguards there are for Indigenous people if companies fail to actually disclose the right amount of profit they have made or if in fact they have a profit, vis-a-vis Xstrata. I am wondering what kind of work the Environment Centre has done to try and get more transparency out of what has gone on down at Borrooloola with the royalty situation there.

**Dr Blanch**—Prior to my time at the Environment Centre, staff worked closely with the traditional owners, and the Northern Land Council were opposed to the mine expansion. They spent much time with Department of Mines and Energy folk and people in the environment and mining minister's offices trying to work out those details, but they were never released. It is a great indictment on the Territory government that when someone, as I understand, from Treasury released a draft document that identified the foregone royalties and subsidies to McArthur, they were hounded out of the Territory and threatened with court action, and I do not think they have never come back. That shows the victimisation of people in the public service who, through a strong conscience, believe that these matters should be more in the public domain. That illustrates the lengths that people have gone to—sacrificing their careers—to highlight how beholden this and previous governments in the Territory seem to be to large and potentially very damaging mines. It contrasts in my mind the level of federal and territory government introspection into Indigenous affairs through the NT emergency response intervention. There seem to be very few financial matters of individual Aboriginal households which are secret from government and intervention. There is a whole other discussion about that, but that level of introspection and public scrutiny and debate does not apply to the mining sector, yet it is very pertinent to the future of Aboriginal people.

**Senator CROSSIN**—What is your response to the claim that this legislation would encourage more mining operation in the Territory and would provide some reassurance to Indigenous people about the right of return for moneys vis-a-vis the use of their land.

**Dr Blanch**—I doubt it will encourage greater mining. I point to Scott Perkins' comments in the submission from the Resource Council and to the comments in the Northern Land Council's submission that there are minimal additional benefits for the mining sector in this. Certainly the creative accountants in the large international mining companies who see benefits in the profit based system may see this as a real benefit. But I am not reading anything in the news about this. I am not getting miners ringing up and saying, 'You have the bull by the horns.' Businesses like administrative efficiency and consistency—at a high level they see that as meritorious. But I am not seeing reports that say this is going to bring billions of dollars more of uranium mining and exploration into the Territory. In terms of the list of matters that might expedite uranium exploration and mining, it is not in the top 10, in my view.

**CHAIR**—Thank you for coming in this morning.

**Dr Blanch**—Thank you, and I hope you enjoy Darwin.

**Proceedings suspended from 9.10 am to 9.30 am**

**LEVY, Mr Ron, Principal Legal Officer, Northern Land Council**

**KNEEBONE, Mr Jonathan, Solicitor, Northern Land Council**

**CHAIR**—I welcome the Northern Land Council. Do you have an opening statement that you would like to make?

**Mr Levy**—Firstly, I offer apologies for our CEO who, unfortunately, is in Queensland and is unable to attend. We have filed a brief written submission. I think it is fair to say that the submission simply recognises the various complex policy issues which face governments in relation to this issue, and notes the importance of, in addition to the statutory royalty scheme, negotiated payments as a means of ensuring or optimising the prospect that traditional owners will consent to proposals to mine uranium on Aboriginal land or non-Aboriginal land—that is, if they wish to do that. And of course, that is part of the mix in terms of the policy imperative of this bill, which is to cause increased development to happen in remote areas through the mining industry. The submission notes that fact, and says that is an issue that needs to be looked at on a case by case basis, as time goes by.

**CHAIR**—The Northern Land Council are happy to see an increased development of mining in the Northern Territory. Can you just clarify your view on the profit based versus the ad valorem regimes? We have heard quite a bit of evidence that people are nervous about the change for uranium mining, that it might not deliver in particular up-front income when the mine starts.

**Mr Levy**—The Northern Land Council is in favour of increased development where traditional owners consent to it, and that statement is put in the context of recognising that the only way that socioeconomic improvement is going to happen in remote areas is by development appropriately happening, and obviously the mining industry is a big part of that. We already operate, and have operated since 1982, under a profit-based regime not in relation to uranium but in relation to other minerals, so the experience of the Northern Land Council has predominantly been profit based.

In relation to a large mine, what that will ordinarily mean is that because the mining company will be in debt for the first decade of its operation, for example, there will be no statutory royalties flowing to the Northern Territory government. Therefore there will be no equivalent payments flowing from the Commonwealth Treasury into the Aboriginal Benefits Account during that initial period, and also at the end of the mine. We sought economic advice about this issue. Our advice, I think is probably pretty similar to the government's. Our advice was that over the lifetime of a mine, the royalties which flow under either an ad valorem or a profit based regime are roughly equivalent, but in relation to a profit based scheme, at the beginning and at the end, they may not be flowing or may not be flowing significantly.

So what that means is that in discussing with traditional owners who wish to consent to mining in relation to Aboriginal land, or negotiate an agreement in relation to native title land, we have to make sure that the separate negotiated payments will be identified in such a manner to deal with those periods where there is no statutory payment. That is important because the people who make decisions within an Aboriginal group are usually senior people. Senior people, because they are old, will usually be thinking of benefits to their children and grandchildren, but at the same time, there will need to be some benefit which they see in their lifetime to encourage them to consent, if that is what they want to do.

**CHAIR**—Are you aware of any other non-uranium mines in the Territory where negotiated payments have made up for the period before the mine is in profit?

**Mr Levy**—Yes, but it should be remembered, of course, that although mining is a big issue and a big industry in the Northern Territory, and there is a great of exploration going on, only one in 2,000 exploration licences turns into a mine. So there are not actually many operating mines, but there are negotiated payments. Some of them are ad valorem payments. Some are a hybrid approach where there is a profit based regime with a floor on it. We have negotiated some of that nature, and we directed ourselves to this issue. It is not something one can completely deal with frankly, but this bill is a reform from the Commonwealth government. It is not a substantial reform; it is a significant reform. It is based on economic advice, and the additional things which we have to do in relation to our job, again, are not going to be certain or easily quantifiable, but it is an issue we need to take into account and we do.

**CHAIR**—Those kind of hybrid agreements and negotiated payments have not caused significant problems in terms of delivery of those payments or the way that it has operated.

**Mr Levy**—No. We are confident that we can work with a profit based regime in relation to uranium, as we have since 1982 in relation to other minerals.

**Senator CROSSIN**—If we move to a royalties based regime payment, does it preclude, and would it preclude, any agreement with a mining company over and above that for initial payments in the start-up phase? You could have a mixture of both, could you?

**Mr Levy**—That is correct.

**Senator CROSSIN**—The other question I wanted to ask was: given that you also represent TOs in the mining industry other than uranium mines, what is your analysis of the current operation under the Northern Territory's minerals act with their involvement in a profit based regime? What checks and balance are there that satisfy you that the amount of profits that are reported by companies are actually factual?

**Mr Levy**—Could I say two things, just stepping back to your earlier question?

**Senator CROSSIN**—Yes.

**Mr Levy**—Most major developments, whether it is a mine, a pipeline or whatever, have a number of up-front payments: one when the agreement is signed, another one when construction commenced, another one when production commences. That is a standard mechanism for dealing with this lapse which comes from a profit based regime. That is just an example, if it is any assistance.

In relation to your question just now, other speakers have said, and I think the material filed with the bill recognises, there are accounting complexities, which Senator Joyce knows more about than I do, to ensure that companies in fact do pay royalties and do not, by some lawful means, or less lawful means, manage to avoid their responsibility. We have, from time to time, sought advice from accountants and other experts regarding this issue to make sure that we are satisfied that the right amount of money is flowing. There are always a great deal of rumours around. It may be that there are some companies that governments have discovered have not been doing the right thing and they have been able to fix it, but all the advice that we have got is that governments are able, provided they do their job properly, to stay on top of this issue. Certainly, in our experience, we have been able to get advice when we have needed it.

**Senator CROSSIN**—You distribute royalties from mines other than uranium mines now, that operate under this scheme, and that has not proven to be a problem.

**Mr Levy**—It is an issue which both governments and we need to keep our eye on, and we do. I am not saying there are not problems, but it has not been our experience that these problems are not soluble.

**Senator CROSSIN**—Right. Does that include the operations at Borroloola?

**Mr Levy**—Well, the Borroloola mine is not on Aboriginal land, so there is no royalty flow or royalty equivalent flow via statute to traditional owners, and there are no negotiated agreements. I cannot comment on the McArthur River Mine near Borroloola.

**Senator CROSSIN**—I see. Thank you.

**Senator EGGLESTON**—There are a lot of other minerals mined in the Northern Territory. There are gold, bauxite, manganese, iron ore, zinc. Most of those would be subject to a profits regime I would gather, so it would be consistent with the regime operating for all the other minerals if uranium was brought under a profit regime. Would that be a fair comment?

**Mr Levy**—Yes, that is the argument for the bill. The argument is that it makes it easier; there is less paperwork, which businesses always want, and that is understandable.

**Senator EGGLESTON**—You have made the comment in your own submission that over the longer term the flow of income to the Indigenous communities is fairly similar from both systems.

**Mr Levy**—That is the advice we have always received. Of course, if it is true—and it is the economic view that has been put and the advice we have received as well that, over time, there will be a significant increase in mining, in our case on Aboriginal land mining by consent—then the Northern Land Council is always pleased when traditional owners get what they want. If they want mining then the NLC is pleased to cause that to happen. If they do not, they are also pleased about that. So if there is an increase in mining by consent on Aboriginal lands, that would be something that would please the Northern Land Council.

**Senator EGGLESTON**—The implication in that comment—and I have read it in the submissions—is that the ad valorem system is a disincentive to mining to some degree, but a profit based royalty system will encourage more exploration and the development of further mines. Would you agree with that?

**Mr Levy**—That is the economic advice which has been given, not only to us but to others. It is a bit hard to quantify but, over time, there is an expectation it will significantly increase mining.

**Senator EGGLESTON**—The other question that I asked a witness earlier was about the income coming into Indigenous communities. The income really is not a royalty income. In most cases, their base income is not from royalties. It is from many other sources: from government and various kinds of government programs operating in those communities. Would you care to make some comments about the income base of most Indigenous communities and the importance of royalties to that base?

**Mr Levy**—The vast majority of people in Aboriginal communities are not working. The standard way whereby 99 per cent of Australians get wealth is to have a job, and they do not have a job, so they are not getting wealth via that standard means. The greatest benefit that development, whether it be mining or other development in remote regions, can bring is to provide opportunities for Aboriginal people to have jobs. The whole issue of royalties is much more, within the terms of the statute, about appropriate compensatory arrangement for the people who own the land where the mining happens.

The wealth from royalties is never really going to solve those sorts of social disadvantage problems by itself. The issues, as I am sure people here are aware, are deeper and relate to education and a range of industries which may create jobs in communities and in making sure Aboriginal people are able to get those jobs and have sufficient skills to get them. I think the

mining industry has certainly recognised, through its peak bodies and through its actions, that it has a big role to play because it is one of the big drivers of development in remote areas.

**Senator EGGLESTON**—Thank you for putting that on the record for the *Hansard*.

**Mr Levy**—Thank you, Senator.

**Senator JOYCE**—What is the process that you use, on a profit based system, to actually discern what the profits of a company are? How do you audit the books so that you know that they are not just shifting costs into there that are not appropriate to that site?

**Mr Levy**—We put conditions in our agreement that allow, under strict commercial confidence, for the books to be checked by experts that we engage from time to time, should that be necessary. We have in some cases done that. Without mentioning any names, we did that in the last few years in relation to a mine and ascertained that there were inadvertent discrepancies. That allowed an increased flow to that particular Aboriginal group.

**Senator JOYCE**—So is it a process that works on bona fide at the start? They send you the cheque and you are happy with that, but if you have got any problems then you may request to audit their books?

**Mr Levy**—That is right. The other option would be to go to the government and seek it, which we would do, of course, because governments are watching the statutory royalty scheme that they administer, and we would seek advice from governments as well.

**Senator JOYCE**—How do you deal with such issues as transfer pricing, where people say, ‘Well, that is the price I am transferring the product out at’?

**Mr Levy**—It is a significant problem. We rely on expert advice. We rely on governments. Not just we, but many other people, would be concerned by the comments you and others have mentioned as to whether it is possible, at the end of the day, for companies to get out of paying a fair return. It is a significant issue. We seek advice about it. All I can say is that the advice we have got is that governments can get on top of that. We have heard of examples where they have not, but the advice we have received is that governments can get on top of that. Government proposed this law and we have operated under the same law in relation to profit base for non-uranium since 1982. Our experience is that we believe we will be able to.

**Senator JOYCE**—With the mines that you have, is it a case that there is an external party which the product gets sold to? Do you have any examples of where the product is actually sold to another section of the same company?

**Mr Levy**—I think there has been a spectrum over time of how major companies have sold products. Some of the major companies operating in the Northern Territory over the last 30 years have sold to subsidiaries. There may be some examples of where governments have had interplay with companies about that, in relation to royalty regimes. The NT government might be able to comment on that more than we can.

**Senator JOYCE**—Is there a strong belief that the royalties that will be received from uranium will be evenly distributed amongst the community or will be distributed proportionally amongst the community? Is there any capacity for—for want of a better word—nepotism, where it goes to a certain part of the community?

**Mr Levy**—This is a broader policy issue, as I am sure you would appreciate. The land rights act, in its original form, said that they are not royalties, of course; they are simply payments from the Commonwealth Treasury equivalent to the royalties that the NT government receives. In its original form, the land rights act said that the royalty equivalents would be paid to the community affected by mining, but Aboriginal tradition throbs away in these communities and traditional owners, wherever I have been, always say, ‘Well, that is our land. We own the minerals.’ Legally, they do not, but they say that under their law and custom they do.

Our obligation is to give the royalty equivalents to an Aboriginal association whose members are affected Aboriginal people in a region, and that has always tended to focus on traditional owners of the land where the mine is. In recognition of that in 1987 the land rights act was changed so that the Aboriginal association that receives mining royalties would be comprised either by traditional owners and/or affected members. I should say that we have no power to hand mining royalty equivalents to individuals. We can only give it to an Aboriginal association. Aboriginal associations since 1987 have been traditional owners and affected groups.

**Senator JOYCE**—Do you believe that process is working effectively, that it is dissipating the funds in a prudent and fair manner amongst the community?

**Mr Levy**—I think it is working reasonably effectively but, in the same way that mining companies need to be watched to make sure there is no transferring and so forth, Aboriginal corporations need to be watched to make sure that they are working properly and, if change is needed, that can happen. I think a previous speaker mentioned that we used to give funds, the Ranger royalty equivalents, to the Gagadju Association. That seemed to work fine for a while, but there was a point in time when it did not appear to work anymore, so we assisted in creating a separate corporation, the Gundjeihmi Corporation, to receive royalties. They have spent their money in recent years, predominantly in investments, investing in various infrastructures and so forth.

**Senator JOYCE**—How do you dissipate those funds to members of the community that are no longer associated with the land but may certainly have health requirements and are living in town?

**Mr Levy**—The Aboriginal corporations do, usually in conjunction with mining companies, engage in various programs about alleviation of poverty. They are usually charitable organisations, but there is a real issue about how much money should go into that and how much money should go into a commercial development. Out in Gove, for example, two of the three royalty associations have used royalties for commercial development. One of them has been in the newspaper recently: the forestry operation. Another one is the construction of houses in Gove by another Aboriginal group.

**Senator JOYCE**—To the best of your knowledge, has there been any commitment from the royalty money that goes to the communities back into such things as public housing or some

form of housing or shelter in places like Darwin, where there would undoubtedly be members of the community?

**Mr Levy**—Not in Darwin, but in Gove that has certainly happened. There used to be three mines on Aboriginal land in the NLC region. The Groote Eylandt manganese mine has not been part of the NLC's region since the early nineties, so there are two mines: the bauxite mine at Gove and the Ranger mine. As far as Darwin goes, the issue with the Gagadju Association was that the membership grew so large that it was strongly believed within the region of the Ranger uranium mine that the payments were being distributed too broadly—including to, very broadly, Darwin and further—such that it was spread a bit like peanut paste across the landscape without sufficient accumulation. That was one of the reasons why there was a change in 1997 to a smaller body which could accumulate wealth and then be able to do something with it.

**Senator JOYCE**—Wouldn't it make sense that, unless someone has accounting expertise proximate to them, an easier way for them to ascertain what is owed to them is just to have a look at the tonnes of ore going out the gate and get a pretty good idea from that how much they are going to get paid on an ad valorem basis. Do other communities have the expertise in ascertaining profit that you can deliver via accountancy expertise, or are there other people to whom that expertise is not apparent or proximate who therefore would be open to being ripped off?

**Mr Levy**—That is the downside of the bill. There are a range of policy issues, some of which support the bill and some of which, like the one you have mentioned, count against it. All I can say is that, in relation to major mines, you would expect that Aboriginal groups, through the Northern Land Council and other land councils, would be able to have access to advice. There are four land councils in the Territory and it is fair to say that all of them have access to advice to help Aboriginal groups regarding these sorts of issues.

**Senator JOYCE**—I have a doubt about this whole thing. The most fascinating thing that ever happened to me in my cost-accounting days was when the auditor turned up because I knew conclusively that he did not have a clue what he was doing. I could take him wherever I wanted and he would not know because you have to have an intimate knowledge of the cost effects of the business you are in. Even within an organisation there are only a few people who can tie it all together. So, to an outsider coming in, they will just say, 'Here they are,' and let them wander around and have a look. How do you get a sense of justification on the figures that you are getting? These are multi million dollar projects and it is so easy to hide revenue or, more to the point, increase expenses.

**Mr Levy**—It is a significant difficulty. All we can do is rely on expert advice. I guess it is probably fair to say there is a bit of gut feeling about it. If the royalty flow to governments, and therefore the compensatory arrangement from the federal government to land councils, suddenly plummets or significantly drops, that would be the other thing you would look for. Ultimately it is a significant difficulty, but we rely on expert advice.

**Senator JOYCE**—Can you give me an example of that expert advice? Do you go to KPMG, PricewaterhouseCoopers or something like that?

**Mr Levy**—Yes.

**Senator JOYCE**—Who do they send out? Do they send out a senior partner with relevant expertise, or do they send out someone who is in the first five years of their job?

**Mr Levy**—No, we always go to people who are very experienced. We have used those firms and we have used other people who are consultants who are known within the industry as being very experienced.

**Senator JOYCE**—What do they table for you? Do they table forensic accountancy working papers of how they have gone through it and detail reconciliation of issues, or do they just have a sit-down consultation with you?

**Mr Levy**—They provide a written report. Pursuant to the contractual conditions, they will attend at the company and look at the books.

**Senator JOYCE**—Do you ever sit down and say, ‘Let’s look at the working papers and see exactly what you did, what documents you sighted. Did you do a test analysis sample on certain days and production components and cross-reference them?’ Do you know when you are talking to the accountant whether they have done their job? People—this does happen—get sent out to a site and one of the first decisions they make is whether you would know whether they were doing their job.

**Mr Levy**—That is a very good point. Persons such as me do not have that expertise.

**Senator JOYCE**—*Quis custodiet ipsas custodes?*

**Mr Levy**—That is a very good point. This is what happens when you engage any expert. When you engage a lawyer to do something, how do you as a non-lawyer gauge their work? How do you as a non-accountant assess it? All I can say is that I and others take a very forensic interest in any expert advice we receive. But at the end of the day you have to rely on the advice and you have to assess it against a gut feeling as to what things are worth. Over time, as a non-expert in the field, you get a gut feeling as to what the flow should be. It is not a precise, but you get an idea.

**Senator JOYCE**—What would you do in the future if the organisation that you were querying—and we have had the example of CCNC, which will be based in China buying the uranium—were owned by the same corporation in Australia selling the uranium and said to you: ‘All the books say that we’re not making very much money at all. If you have a problem with that, here’s the number in Beijing to call’?

**Mr Levy**—Ultimately, in relation to the statutory royalty scheme, the first responsibility is going to be governments’. The first step will be to rely on governments to do their job properly about that. To the extent that we get a separate flow from the federal government equal to that royalty the NT government receives, we are vitally interested in the issue you have raised. Insofar as we have a negotiated payment on top of all that, that would be a matter we deal with directly. You are quite right—an ad valorem scheme is much simpler. It is much easier in terms of small organisations like us or Aboriginal groups keeping an eye on the flow. It is probably easier for governments too.

**Senator JOYCE**—So you would be relying on the government to act on your behalf to be the prime negotiator in bringing about a resolute dispute process.

**Mr Levy**—We would rely heavily at first instance on the treasuries of the federal and Northern Territory governments, with whom we have good relations, to receive advice and to be assured that it is being done properly. But if there is a problem we have contractual conditions which allow us to find information as well.

**Senator LUDLAM**—Thanks for coming in and for your submission. I will start with the broad issues and then come down to the specifics that we are considering today. There is a report, which was also referred to yesterday, of the native title working group from December last year that shows that only a very small minority of agreements have actually produced tangible benefits for Aboriginal people and that the vast majority have not or are at least ambiguous in that regard. How does the land council think we are doing generally in the Northern Territory, and what could we be doing better?

**Mr Levy**—In relation to native title, land rights or both?

**Senator LUDLAM**—Start with native title, but you have the land rights act here as well.

**Mr Levy**—Native title has had a substantial positive benefit, which is continuing not only in relation to appropriate financial flows, where that is justified, but also in terms of cultural recognition in the Northern Territory. There is no doubt about that. The Mabo decision and the Native Title Act had an immediate effect by 1995 in improving the Northern Land Council's relations with many major mining companies. CRA, which is now Rio Tinto, publicly stated in 1995 that if there was going to be native title across Australia they wanted to take advantage of building relationships with bodies along the lines of the model of the land rights act. There was a great improvement in relations with mining companies in the Northern Territory because of the Native Title Act.

In terms of financial flows, I am aware of the submission you are referring to, although I think some qualifications need to be put on it. The fact is that, where native title exists and where Aboriginal land exists, it is usually the land which generally, although not totally, does not have a lot of economic value. Then you have to add to that that mining does not happen very often and also that Aboriginal land and native title do not include the minerals, which are where the value is. So, in assessing the many agreements which have happened in the NLC's region and in the Northern Territory, it needs to be taken into account from the outset what the realistic value of that agreement was. The agreements we have negotiated include all sorts of things—wharves, buffalo hunting, schools and housing—not just mining. The flow of income from those agreements reflects the nature of the development. Most agreements are fairly small developments, as you would expect. The larger developments have a commensurate flow and in all cases, in our view, a reasonable flow commensurate to what the development was. So I do not entirely go along with the comments you are referring to. I think they are based on some false premises.

**Senator LUDLAM**—Roughly what proportion of agreements that you are involved in negotiating involves mining operations or exploration in mining?

**Mr Levy**—Many, in relation to exploration. That is one of our major areas of work. And there is a small flow of income that has been fixed for many years which includes casual work for people to assist in sacred site clearances and so forth. But you would not expect exploration to deliver any more than a small flow.

**Senator LUDLAM**—One of the findings of that paper was that it was a bad idea to graft the uranium sector onto a system which effectively was not working very well for Aboriginal people in the first place, and they proposed a review or an inquiry into whether mining agreements are delivering benefits to TOs commensurate to the promises that are being made. Would you support such a review or is the Land Council content with how the system is operating?

**Mr Levy**—I always support reviews where they are appropriate, but there is a false economic premise in this whole area. The way most Australians—almost all of us—make wealth and have comfortable lives is by having a job. You cannot expect a royalty flow, rent or whatever to benefit any more than just the small group of people who own the land. The way the world is supposed to work is a few lucky people own something that is valuable and they have very comfortable lives. What we want is for them to use the wealth to create enterprises, which creates jobs, so the rest of us have work. The great challenge in the area of Aboriginal affairs is to assist the Aboriginal groups that own property to do exactly that. That is where the area of policy really is.

**Senator LUDLAM**—You have said in your paper—and a number of senators actually referred to the statement—that the ad valorem regime, the profit-based regime, may deliver a similar quantum of royalties over the lifetime of the mine. You have had some economic modelling or some advice that shows that to be the case. Is that advice or that modelling in the public domain? Can you point this committee to where we might access those figures?

**Mr Levy**—There would be stuff in the public domain. We have had this advice not only in relation to when we were involved in the Uranium Industry Framework group together with the Central Land Council; we have had this advice regarding any mine we have ever negotiated, and we have negotiated ad valorem regimes, profit based regimes and hybrid regimes. I do not have anything I am able to make public, I am sorry about that, but I will see if I can find something that is in the public arena and I would be happy to forward that to you if that would be of assistance.

**Senator LUDLAM**—Yes, I would appreciate that. I will ask the department too in a moment. In the last paragraph of your submission you say fairly strongly:

One means of ameliorating this potential disincentive may be to ensure that negotiated payments in mining agreements meet any shortfall to traditional owners during periods when royalty equivalents are not paid.

So specifically you are talking about the start-up, I suppose, if there is a dip—and uranium is a volatile industry—or toward the end of a mine's life. Would you support an amendment to this bill that specifically addressed that concern that you have raised?

**Mr Levy**—I think the bill already addresses it because the bill does not adopt a suggestion which was made by some stakeholders that negotiated payments with Aboriginal groups would deduct from the statutory royalty flow to governments. So that was the primary thing which

we—and I can speak, I think, for the Central Land Council also—wished to achieve in the Uranium Industry Framework process, and that was achieved. We share the reservations expressed by Senator Joyce as to the difficulties of assessing these things. We also share the policy imperative for the bill that over time it seems that it will have a significant positive impact. Those, ultimately, are matters for parliament, but we wanted to make sure there was no deduction, and there was not.

**Senator LUDLAM**—But I am still not entirely clear from your submission whether you actually support the bill or not.

**Mr Levy**—Our submission is that we have worked under a profit based scheme regarding non-uranium minerals since 1982. Firstly, we have done that successfully and, secondly, we are confident we can do so successfully regarding uranium if this bill passes.

**Senator LUDLAM**—So that is kind of a qualified yes?

**Mr Levy**—It is simply as I said.

**Senator LUDLAM**—Okay. Can you be clear please whether you would support an amendment that made sure that up-front payments were made to address the issue that you have quite rightly raised that, particularly for senior traditional owners, there may actually be no incentive to come to an agreement at all?

**Mr Levy**—I do not think the amendment is necessary. I think, with respect, it is outside the scope of the bill. This is a bill about the flow of royalties to the Northern Territory Treasury in relation to uranium. Indirectly that affects Aboriginal groups only in relation to Aboriginal land because there is a Commonwealth scheme, the land rights act, which causes the Commonwealth to take money out of the Treasury which is not mining royalties and put it into the Aboriginal Benefits Account, 30 per cent of which makes its way to the traditional owners or affected groups. The whole reason we are here today is indirect. This is a bill simply about the royalty flow to the Northern Territory Treasury, and I do not think that amendment is necessary for that reason. It is dealt with by another statute.

**Senator LUDLAM**—In the last few paragraphs of your submission you are effectively thinking out loud about how you will have to do your job differently, rather than advising the government as to the way that this legislation may operate?

**Mr Levy**—We thought it was important in dealing with significant reform with some complex issues—some tending one way and some tending the other way—that the parliament had it all before them. Ultimately, it is up to the parliament to decide what it wants to do, and we can work with either regime.

**Senator LUDLAM**—You and the CLC have a seat at the table at the UIF and have done since it was—

**Mr Levy**—The Northern Land Council does. The Central Land Council does not, but it was on the subcommittee that dealt with royalties.

**Senator LUDLAM**—As were you?

**Mr Levy**—That is right. We were on that subcommittee and other subcommittees. Also, the Northern Land Council is part of the Uranium Industry Framework.

**Senator LUDLAM**—I am aware of the establishment of the UIF under the Howard government in the last couple of years, but I am not au fait with exactly how it operates. Is it a consensus-based decision-making body? How did it come to a decision that this was the way to go for royalties?

**Mr Levy**—It does not make decisions. It simply created a series of papers and the papers had within them the views of all the participants. Where there was agreement, it was simply, ‘This is what all the participants think.’ Where there was not agreement, the various papers and the final paper that went to the government listed the alternative views.

**Senator LUDLAM**—Okay. So was the NLC supportive of the broad architecture of this bill?

**Mr Levy**—Of the bill?

**Senator LUDLAM**—Sorry, no. I beg your pardon. We will take a step back to the broad statements that were made by the UIF and the advice that was given to government.

**Mr Levy**—The NLCs position was, as I have stated. It is always easy at a land council, for the reasons Senator Joyce indicated—ad valorem is simple: simple to understand and simple to check. But we know from our experience that we can work with either regime.

**Senator LUDLAM**—So you ended up being more or less neutral. You did not take a strong position within the UIF that, ‘No, this is not the way to go.’

**Mr Levy**—I think that is fair to say. The primary thing we wanted was to make sure that there was no possibility of deduction between contractual negotiated payments and the royalty regime.

**Senator LUDLAM**—I will just put one more question to you, which is along the line of questioning that Senator Joyce was pursuing. I am still not clear as to who has the final oversight, where the buck stops as to whether the company’s books are in good order. You obviously have the power to go in and do the forensic analysis of the books, but you have also said that that is the responsibility of government.

**Mr Levy**—It is the primary responsibility of government. This is royalty flow to the Northern Territory Treasury but because it is uranium the Commonwealth is involved. It is the primary responsibility of the Northern Territory Treasury and probably also the Commonwealth Treasury because it retains a reserve power about the royalties.

**Senator LUDLAM**—As a consequence of signing these contracts or these agreements, you have as a right the ability to at any time conduct an investigation into the company’s accounts?

**Mr Levy**—To say we have some sort of right at any time is not the way I would put it. We have agreements which allow us to appropriately look into this issue should it be required. But

our interest in this bill is indirect. Mining companies mining on Aboriginal land do not pay any royalties whatsoever to traditional owners; they pay the money to the Northern Territory Treasury or, in the case of uranium, to the Commonwealth Treasury. The Commonwealth then, via a special appropriation dating from 1976, takes other money out of general revenue, which is not royalties, calculated by reference to the royalties that are given to governments and that goes into the Aboriginal Benefits Account. We do not receive any royalties; we receive Commonwealth taxes. We have an indirect interest in this bill because the way royalties are paid under this bill affects how much we get under another statute.

**Senator LUDLAM**—But it is a direct effect, isn't it—it is dollar for dollar? There is not some complex formula that is involved?

**Mr Levy**—That is right. Our interest is a very major interest, but it is an indirect effect of the bill.

**Senator LUDLAM**—Thank you. I will leave it there.

**CHAIR**—Thank you. Senator Pratt, do you have any additional questions?

**Senator PRATT**—No, I do not.

**CHAIR**—Thank you, Mr Levy and Mr Kneebone, for coming and giving evidence this morning.

[10.11 am]

**SELLERS, Mr Richard, Executive Director, Minerals and Energy, Department of Regional Development, Primary Industry, Fisheries and Resources, Northern Territory**

**VUKMAN, Mr Craig, Executive Director, Revenue, Northern Territory Treasury**

**CHAIR**—As we are hearing from representatives of the Northern Territory government, I will just read a small preliminary. For the benefit of the officers, I advise that the Senate has resolved that an officer of a department of the Commonwealth or of a state or territory shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. I welcome Mr Sellers and Mr Vukman. Do you wish to make an opening statement?

**Mr Vukman**—I do.

**CHAIR**—Go right ahead.

**Mr Vukman**—Commonwealth ownership of uranium in the Northern Territory and its ability to derive royalties is inconsistent with other mineral deposits in the Northern Territory, whereby the Northern Territory government is able to derive mineral royalties. Unlike the Northern Territory government, all other Australian state governments have ownership of, and can derive royalty revenue from, uranium deposits in their jurisdiction. The bill adopts the profit based royalty scheme set out under the Northern Territory's Mineral Royalty Act as the most appropriate scheme for determining royalty from uranium mined in the Northern Territory. However, the bill only applies to new uranium mines and the Ranger uranium royalty agreements remain unchanged.

The bill is responding to industry concerns that the lack of a defined scheme provides insufficient certainty of the royalty requirements for prospective miners. If a new uranium mine were to commence in the Northern Territory, the use of the Northern Territory's mineral royalty scheme is consistent with the royalty arrangement that applies to most other Northern Territory mines and would most likely apply to uranium if the Northern Territory was not prevented from levying its royalty. The use of the Mineral Royalty Act also overcomes administrative and royalty apportionment problems that would arise if different royalty schemes apply where a prospective uranium ore body coexists with other exploitable ore bodies. This is because the same royalty scheme will apply to the Commonwealth uranium royalty and the royalty payable to the Northern Territory on other minerals.

The bill proposes that the Northern Territory government administers the scheme in conjunction with its administration of the Mineral Royalty Act in respect of other minerals extracted from the Northern Territory. There are general administrative efficiencies gained from the proposed uranium royalty scheme being as consistent as possible with the Mineral Royalty Act. As set out in the bill, the Northern Territory is to receive a royalty equivalent grant that is

equivalent to the royalty raised under the bill. The grant is consistent with the amount of royalty that would be collected if the ownership of uranium was vested in the Northern Territory. In effect, this will place the Northern Territory on similar fiscal grounds to the other states.

Finally, the bill only provides the fiscal scheme that would apply to a new uranium mine in the Northern Territory. It does not itself establish new uranium mines, as there are other processes for determining whether or not a new mine is approved.

**CHAIR**—Thank you, Mr Vukman. I have a few questions on behalf of Senator Crossin, who had to leave for another appointment. The first one might be more in Mr Sellers' area. The explanatory memorandum says that the bill would make certain modifications to the application of the NT's Mineral Royalty Act. What are these and how does this impact on the operation?

**Mr Vukman**—As you probably noticed in the explanatory memorandum, I could not see much direction as to what that might mean. I could only think that they are things relevant to the Commonwealth government, as they might think fit, that would be inconsistent. Other than that, I do not know what they might be.

**CHAIR**—We will ask the Commonwealth.

**Mr Vukman**—In relation to my last comment about the consistency of fiscal arrangements with the states and the Territory, that is important to the extent that the Territory should be on the same fiscal grounds as the other states, therefore its royalty regime should apply, as it does to other minerals, to uranium.

**CHAIR**—We have heard evidence that Xstrata, at the Borroloola mine, has not paid any royalties. Could you comment whether that is in fact true and, if so, what action does the NT take to ascertain what profits are made each year? How are the royalty and profits calculated and what safeguards are there to ensure that payments to be made to the traditional owners are made, if companies fail to act properly?

**Mr Vukman**—First of all, I cannot go into the specific details of any one royalty payer. The secrecy provisions of the Mineral Royalty Act prevent me from doing that. But I did note that Xstrata did make a public announcement to the extent that they paid an amount of royalty in the last royalty period. I cannot recall the amount, but it was in the millions. In relation to the second part of your question on the sorts of processes the Territory Revenue Office goes into to ascertain whether royalties are correctly paid, the Mineral Royalty Act has a process whereby royalty payers pay two estimated payments at six monthly breaks and at the end of the year they file an annual return and every one of those annual returns is audited by our office—that is, we have compliance officers who attend and satisfy themselves that the royalty payment is correct.

**CHAIR**—Let us not talk about Xstrata specifically; let us talk generally. Are there any non-uranium mines in the Territory that have not paid any royalties after, say, four or five years of operation?

**Mr Vukman**—I cannot comment on specific entities. I would say that there are some, and that reflects the economic situation of that mine, in that it obviously has not had sufficient to derive a

profit. As I stated earlier, we do investigate every annual royalty return and ascertain whether royalty should have been paid or not.

**CHAIR**—Does a royalty based scheme mean that traditional owners would get no payment during the start-up period for the mine? If there is a royalty based scheme, that does not preclude other payments being made to the traditional owners of that land?

**Mr Vukman**—I think the answer to that is more in relation to the arrangements that are in place in relation to royalties. First of all, under the Aboriginal Land Rights (Northern Territory) Act, there is an ability for traditional owners to negotiate royalties directly with the mine as part of the access arrangements. That is a completely and entirely different process to what the Mineral Royalty Act in the Northern Territory is trying to do. So the ALR act allows those negotiations to be settled and to go on. I have no knowledge or understanding of those arrangements. They are purely related to those parties concerned.

**CHAIR**—Let us just make that crystal clear: this bill and the act that it is related to do not preclude those kinds of payments being made?

**Mr Vukman**—No, they do not. This bill does not, in any way, affect any of the implications or arrangements under the Aboriginal Land Rights (Northern Territory) Act, as I understand it.

**CHAIR**—Senator Joyce.

**Senator JOYCE**—Are there any mines that have not paid royalty but are moving ore out?

**Mr Vukman**—Yes, there would be. Right now at the moment or in history?

**Senator JOYCE**—Yes, in history, right now, any.

**Mr Vukman**—I am sure there certainly have been, and that is the basis of a profit based scheme. At times a mine, in low or depleted or depressed market times, may be in a situation where it draws a loss.

**Senator JOYCE**—At what point in time, with them moving ore out but not paying royalty, do you say, ‘Can we have a look at your books’?

**Mr Vukman**—Sorry?

**Senator JOYCE**—What is the trigger that makes you decide that it is time to go and have a look at their books?

**Mr Vukman**—The filing of their annual return. Every year we look at every royalty return and assess whether the royalty return is correct. In addition to that, I note that the Mineral Royalty Act, as it currently stands, requires all miners to get an independent auditor to revise their royalty return before they submit it.

**Senator JOYCE**—Basically, we have the mines that send ore out and do not pay royalties. The trigger for it is the annual return where, if they say, ‘Made no profit, do not pay royalty,’ then you rely on an independent auditor. Is that every time or some of the time?

**Mr Vukman**—No. We do not rely on an independent auditor. An independent auditor is required to do that task for the mine before it submits its return. In addition to that, we do our own audit to determine whether the assessment is correct.

**Senator JOYCE**—Do you do an audit on every audit?

**Mr Vukman**—Obviously, you have to take into account the resources you have available and we risk assess some aspects of the audit, but those processes are all about trying to ascertain the correct amount of royalty that ought to have been paid.

**Senator JOYCE**—I refer to this part of the University of Sydney submission where it says:

A profit-based royalty scheme may have adverse impacts on indigenous communities. First, a shift to profit-based royalties privileges certainty for investors over certainty for indigenous communities, in circumstances where relative certainty is essential for indigenous peoples in planning recurrent funding for services essential for human dignity in remote communities. This is particularly the case in marginal years when no profits would be payable.

Would that not suggest that, as we head into a recession where a whole range of issues are going to become tenuous, the best return to Indigenous communities would be an ad valorem process?

**Mr Vukman**—I can only say that the bill represents the policy of the Northern Territory in having a profit based scheme. I cannot offer a comment as to what I think is the best in these current economic times.

**Senator JOYCE**—How do you understand an ad valorem scheme?

**Mr Vukman**—How do I understand an ad valorem scheme in terms of its operation?

**Senator JOYCE**—Yes.

**Mr Vukman**—It is a rate applied to the value of the ore removed.

**Senator JOYCE**—How do you see a profit based scheme working?

**Mr Vukman**—A profit based scheme is the profits of the enterprise of mining.

**Senator JOYCE**—Which one, from an outside position, looks simpler?

**Mr Vukman**—There is no doubt that the ad valorem scheme is simpler in operation, but it has some impacts to it over the term of mining. The profit based scheme aligns itself with the venture and the risks taken with mining and it takes a view that the government as owner of the minerals—or normally the owner of the minerals—is a partner in that venture.

**Senator JOYCE**—How many people in your department are responsible for the administration of the royalty scheme and its authenticity?

**Mr Vukman**—The mineral royalty function is part of our Territory Revenue Office function, which also looks at other taxes raised by the Territory. We have about five or six people who work on royalty matters, as well as other matters. It is hard to estimate the exact number.

**Senator JOYCE**—What are the qualifications of those people?

**Mr Vukman**—They are accountants generally.

**Senator JOYCE**—With experience in cost accounts in the field of mines?

**Mr Vukman**—Some are, some are not.

**Senator JOYCE**—What would be your process of dispute resolution on an issue of transfer pricing for, say, a dispute with the Chinese government?

**Mr Vukman**—I guess the same issue applies to corporate tax in a similar environment. We would attempt to resolve an alternative market price. The Mineral Royalty Act gives the mineral royalty secretary the ability to strike a price. So if the transfer price is not an amount that is acceptable to the mineral royalty secretary, they can strike a new value on the basis of what they think, given that the whole basis of a transfer price is about a sale to related parties. In that sense there is the ability in the Mineral Royalty Act to strike an alternative value. Obviously, if this ever went to court we would have to have evidence to base our decision to do that. In addition to that, there is the ability in the Mineral Royalty Act and the Mining Management Act to suspend someone's tenement if they are not paying the recommended royalty. That is an absolute end point, obviously.

**Senator JOYCE**—When was the last time you suspended someone's tenement?

**Mr Vukman**—It has not been in my experience.

**Mr Sellers**—I can answer that. It was about 18 months ago, but it was on an environmentally related issue.

**Senator JOYCE**—Who was the company?

**Mr Sellers**—I do not need to go into the details.

**Senator JOYCE**—When was the last time you actually went into a dispute resolution process in the argument over royalties?

**Mr Vukman**—Involving a suspension of a tenement?

**Senator JOYCE**—Yes, or a dispute over the royalties you were getting.

**Mr Vukman**—I should add the Mineral Royalty Act also has an ability for someone to object and appeal to a court, so if we did levy an assessment on someone, or we found their royalty return required them to pay a royalty, they have the ability to object to get us to review that decision. Then, if they are still disappointed with that decision, they can take that to the Supreme Court of the Northern Territory. Through that court process, again, there are appeal rights within the court process to derive legally the amount of royalty that should be paid.

**Senator JOYCE**—Do you think it might be a bit skew-whiff if you have a multibillion dollar organisation or, in fact, a whole nation on one side of the dispute and the five people in your cell on the other side of the dispute?

**Mr Vukman**—I do not understand why that should be an issue.

**Senator JOYCE**—I am saying the expertise that is incumbent upon them is far in excess of the expertise that you have. It is their books, not your books. They will give you what they deem is relevant. If their books are not even in the country, what hope have you got?

**Mr Vukman**—I think I get back to the point that it enables the mineral royalty secretary to derive a value. That is their risk, as I see it. We can derive a value that would be an amount that they would have to be happy with and they would have to take us to a court to prove a case otherwise.

**Senator JOYCE**—What is the process if they do not want to pay it?

**Mr Vukman**—It is a debt to the state and so, therefore, we can recover that debt through a court.

**Senator JOYCE**—What would you do? Do you go out and close the mine down? Do you put a guard around the mine? Do you lock it up? What do you do?

**Mr Vukman**—If you think about it in the context of a profit based royalty, it is probably unlikely that the mine is going to want to run the risk of closure if it is deriving significant profits. So there is a commercial aspect to it as well.

**Senator JOYCE**—Yes. I am just asking: what is the biggest stick you have got? What do you go out and do? If they keep transporting the ore out, what are you going to do?

**Mr Vukman**—Close the mine.

**Senator JOYCE**—What is the process there?

**CHAIR**—Senator Joyce—

**Senator JOYCE**—I am just curious.

**CHAIR**—we are really getting into aspects of Northern Territory administration rather than this bill.

**Senator JOYCE**—That is my last question. I just want to know, if everything comes completely unstuck, what you have to do. Do you wander out and lock the gate?

**CHAIR**—That is really up to Northern Territory administration. I am asking that you move on to aspects relevant to the bill.

**Senator JOYCE**—Do you believe that it is revenue neutral between an adjustment from ad valorem to profit based?

**Mr Vukman**—In what context?

**Senator JOYCE**—Are you going to get as much money from one system as you are from the other?

**Mr Vukman**—I can only say that the profit based scheme is the policy of the Northern Territory government, so we would think that.

**Senator JOYCE**—That they would be no different. They would both be bringing in approximately the same amount of money.

**Mr Vukman**—Comparing the two is a difficult proposition. I think it was said earlier that at the commencement of the mine there might not be many royalties paid, and when the mine matures there will be significantly more. There are factors such as how you ascertain the life of the mine and assess the period against a profit based scheme as against an ad valorem scheme and at what rate you apply an ad valorem scheme. There are a lot of arguments to be taken into account to come to a conclusion as to whether one scheme would add up to the same amount as the other. I would have to say that the aim is to get the same amount of royalty but the profit based regime is more aligned to the risks and the commercial issues facing a mine and the government when it eventually goes ahead.

**Senator JOYCE**—How do you test the validity of transfer pricing on ore that is transferred from Australia to an overseas destination within the confines of associated companies?

**Mr Vukman**—Generally, there is a market for the ore. In the case of uranium there is a quota spot price of the ore. We would have reference to that and, obviously, the spot price being a fairly good indicator, it is reported in a lot of cases, we might derive a price on that. There may be net back arrangements we would have to consider in relation to the costs that are otherwise borne by the recipient of the ore or a part of the group. We may have to consider those arrangements, but in the case of uranium I think there is plenty of information around to derive a reliable price for uranium.

**Senator JOYCE**—You would have to know the quantity though, wouldn't you?

**Mr Vukman**—We would know the quantity. In that sense, there are documents that the mine keeps as to how much ore it removes and I think in the case of uranium it is incredibly well regulated by the federal government in relation to the volume of uranium that is moved. I am not sure that there is much capacity for a mine to alter the amount of uranium that they might move from Australia.

**Senator EGGLESTON**—Much of the discussion over the last two days has been about the impact on Indigenous communities of this change. Ranger, which is the major one affected, is excluded, isn't it?

**Mr Vukman**—Yes.

**Senator EGGLESTON**—What other communities will be impacted by this change? How many of them?

**Mr Sellers**—Currently there are no other uranium mines operating in the Territory but there are some advanced prospects. The most advanced of those are actually in the centre of Australia. There is a polymetallic mine that has got a notice of intent in at the moment called Nolans Bore. That is really a phosphate and rare earths mine that has significant uranium with it as well. Then there are prospects that are in advanced stages with companies to the west of Alice Springs as well and the deposits are called Napperby and Bigrlyi. Those three are probably the most advanced prospects other than Ranger at the moment.

**Senator EGGLESTON**—They are all located in Indigenous land areas?

**Mr Sellers**—Certainly they are in remote areas of the Territory. The exact land tenure I do not recall off the top of my head, but I suggest that the majority of it is on Aboriginal land.

**Senator EGGLESTON**—They are polymetallic areas. The other minerals would be taxed under the profit based system and uranium, if this bill was not passed, would be taxed under an ad valorem system in those mines?

**Mr Sellers**—That would be my understanding, yes.

**Mr Vukman**—That would depend. If this bill was not passed, I presume an agency with the Commonwealth government would negotiate a royalty arrangement in concert with the lease arrangements and that royalty could be a profit based royalty, a hybrid royalty or an ad valorem royalty.

**Senator EGGLESTON**—That is a very interesting answer. So it is really not ad valorem and profit based; it could be combined or it could be profit based?

**Mr Vukman**—If there was a polymetallic find the Northern Territory would seek its profit based royalty on the minerals that are not uranium. On the minerals that are uranium the royalty would depend on that negotiated by the Commonwealth if this bill did not get up. That depends on what was negotiated, as currently is the state of play.

**Senator EGGLESTON**—How are polymetallic mines treated in terms of royalty arrangements in other jurisdictions, say, in Western Australia and Queensland?

**Mr Vukman**—I am not sure directly of any case, but I note that uranium is owned by all other states in Australia. Their royalty schemes would apply to it and so, in that sense, it would be a matter of collection of royalty like any other mineral.

**Senator EGGLESTON**—Much has been made here in these hearings about the financial impact of the royalty payments on Indigenous communities and yet it would seem that royalties from uranium only apply in the Ranger area. What would you say about the impact of uranium royalties on funding for Aboriginal communities in a general sense? What significant percentage are uranium royalties of total funding to Aboriginal communities?

**Mr Vukman**—I do not know the answer to that. The only thing I can say is that if there is a uranium mine that is on land that is designated as original land under the Aboriginal Land Rights (Northern Territory) Act then the royalty equivalent grant payments through the ABA would apply. In that sense how grants are made from the ABA would affect those people.

**Senator EGGLESTON**—Yes. But in a more broad sense the funding to Indigenous people in general and communities is not dependent on royalties from mining. It generally comes from government in various forms—from social security to payment for health services, art centres and many other things—doesn't it?

**Mr Vukman**—Yes, I presume it does.

**Senator EGGLESTON**—It does, in fact. I would have thought you would know that. So the royalties themselves are not such a significant issue that funding for Aboriginal communities would be direly restricted if this legislation were not passed.

**Mr Vukman**—I have not got the detail to answer that. I do not know.

**Senator EGGLESTON**—Do you have any comment, Mr Sellers?

**Mr Sellers**—Only to just recall the evidence of the land council that was just with us who said that they have separate agreements that are negotiated when a mine is being developed. We do not see the detail of those and I cannot see them being affected by this change in where the royalties are collected.

**Senator EGGLESTON**—Yes. My point really is that there has been a lot of talk about this potentially being something of a catastrophe for Aboriginal communities but, in fact, the base funding for Indigenous communities and services does not depend on royalties; it comes from the Commonwealth government and from the Territory government. That is the only point I was seeking to make.

**Senator LUDLAM**—Thanks for coming in this morning. The Northern Land Council just gave evidence to the committee. They took the time to get hold of some economic advice that suggested that over the long term on an average basis a profit based regime would end up with the same amount of money as an ad valorem regime. Has the department done similar modelling?

**Mr Vukman**—As I said before, it is difficult to model.

**Senator LUDLAM**—The NLC has done that.

**Mr Vukman**—I have not seen their modelling, so I cannot comment. From the department's perspective we have had a profit based scheme since 1982. In that sense, there has been no evaluation to question it against any other regime. It is the policy of the Northern Territory.

**Senator LUDLAM**—I am a little bit puzzled and perplexed as to whether you have any idea whether the Territory is going to be any better or worse off under this scheme. It is not beyond the wit of the land council to do that on behalf of the people it represents. I would have thought, on behalf of the taxpayers of the Territory more generally, that you would have done something similar.

**Mr Vukman**—I think under the bill the Northern Territory should receive an amount equivalent to the 18 per cent royalty that would be imposed. I think that would be higher than the 1.25 ad valorem that it currently gets through the Ranger arrangements.

**Senator LUDLAM**—Leaving Ranger to one side.

**CHAIR**—It is the only other uranium mine.

**Senator LUDLAM**—Yes, but it is formally excluded from the operations of the bill.

**Mr Vukman**—It is.

**CHAIR**—Exactly.

**Mr Vukman**—The point I am trying to make is that, yes, we think we would be better off under the new arrangements if you can compare it to what otherwise might be negotiated if this bill did not get up, being what might be a Ranger arrangement.

**Senator LUDLAM**—You think you might be better off. Has that been tested, modelled and evaluated?

**Mr Vukman**—I think the 18 per cent profit royalty would probably result in a higher amount than the 1.25 ad valorem.

**Senator LUDLAM**—Can you tell me what regime operates in WA and Queensland in particular? How are mining royalties assessed?

**Mr Vukman**—Predominantly ad valorem schemes.

**Senator LUDLAM**—So you are seeking to bring the NT into line with these other states but you are pursuing a different model of assessing royalties.

**Mr Vukman**—The Northern Territory government made a decision in 1982 to move to a profit based approach. The NT government believes there are benefits in that approach. There is a bunch of studies that say that, one by ABARE, and I think the Commonwealth government would also hold that view—their petroleum resource rent tax is resource rental or profit based.

**Senator LUDLAM**—So maybe it is the other states that have got it wrong.

**Mr Vukman**—I cannot comment on that.

**Senator LUDLAM**—Sure. Is there a degree of competition between the states and territories to bring proponents in? We saw that most obviously with the gas, between the Kimberley and Darwin. Is there a similar degree of competition between the states and territories to attract mining companies?

**Mr Sellers**—Probably I should answer that one, Senator. Certainly there is. There is a very high degree of competition in terms of the exploration dollar, and from exploration obviously come mines. To go back to your last question, while I cannot talk about the detail, I deal with the authorisations of the mines, when we are finally giving authorisation and take the security, and at that stage the mining company has done its due diligence. I have had conversations with the accountants for mining companies that have done some of the modelling you are talking about and they are comfortable that, on the rates that they might pay in, say, Western Australia compared to the system we have here, it equates to the same over the life of a mine. That is a verbatim comment back to me. I have not seen the modelling.

**Senator LUDLAM**—That is all right. Would you be of the view, then, that bringing uranium into line with the way that other mines are assessed and taxed in the Northern Territory will make the NT a more attractive proposition for the mining industry than, say, WA or Queensland?

**Mr Sellers**—That was certainly part of the premise of the working group in bringing it forward.

**Senator LUDLAM**—That is kind of my point, that the mining industry is going to be feeling it is getting a better deal under this mode of assessment—that is, it is going to be paying less money to the taxpayer and the TOs.

**Mr Sellers**—Just one clarification on that: Western Australia has just come into line with allowing companies to apply for a uranium mine and there are still some other issues in other states—New South Wales and others do not allow it, and Queensland is yet to see what happens after the election.

**Senator LUDLAM**—The Queensland Labor Party have said that they are going to stay with the ban, and I do not know if anybody has found much uranium in New South Wales, but my point was a broader one. You are saying that the appeal of the NT is that you have got a more generous way of assessing royalties here, and this bill is bringing the uranium industry into the fold. I think it is not necessarily to the benefit of the taxpayer, but it is certainly to the benefit of the industry.

**Mr Vukman**—I think the concept of generosity may not be in terms of the total amount of royalty that is paid; it may be more in terms of the basis of using a profit based approach, given that the states' or the Commonwealth's royalties would be aligned with the fortunes of mining. That is, on an ad valorem approach, if the mine is not making a profit it still has to try and find the money for the royalty; whereas, under a profit based approach, both the government and the company are on similar ground in that they receive revenue or money through, obviously, deriving a profit.

**Senator LUDLAM**—Sure. Is it the case, in the case of Xstrata, that what they were doing was entirely legal? It was audited by your department and found to be entirely legal that, for a period of 10 or 11 years, they were not paying a dollar of royalties to the NT or to the Commonwealth, and it was really only the renegotiation of those leases around the expansion of the McArthur River mine that led to them finally paying something? They were not actually doing anything under the table—it was entirely lawful what they were doing?

**Mr Vukman**—I cannot comment on an individual royalty payer. I can just say that every royalty return is audited and we would either issue an assessment or refund as a result.

**Senator JOYCE**—Do you know how many tonnes of ore they moved in that 12-year period?

**Mr Vukman**—I do not have that detail.

**Senator JOYCE**—Could you find out?

**CHAIR**—Could you take it on notice and provide us with an answer, if you would.

**Senator LUDLAM**—Just as an aside, I am a lot more familiar with the mining industry in WA and these things are not negotiated in secret and it is not impossible to find out, or it certainly would not be impossible for officers of the Department of Mines in WA to provide really basic information about that kind of thing. Why is it shrouded in such secrecy in the Territory?

**Mr Vukman**—There is a section of Mineral Royalty Act that prevents me from disclosing details of any particular royalty payer. A similar provision applies in the Income Tax Act to the officers of the ATO and a similar provision applies to other state and territory taxes around Australia. I cannot comment on the—

**Senator LUDLAM**—I realise you did not write that act and that you are bound by it, but it makes the job of the committee very difficult if you are not able to tell us basic information, which would be available in other states, about how the mining industry pays its way or not.

**Mr Vukman**—In aggregate terms, I can tell you what royalty has been paid by Northern Territory miners over the past couple of years.

**Senator LUDLAM**—I presume that is in your annual reports.

**Mr Vukman**—Yes.

**Senator LUDLAM**—Are there any mines—without naming names, if you are not able to—that have started up, operated for a couple of years and then closed down without ever paying royalties to the Territory?

**Mr Vukman**—Not to my knowledge.

**Senator LUDLAM**—I guess that would have been the case at the McArthur River expansion—

**Mr Vukman**—Yes, there have been, I am sorry.

**Senator LUDLAM**—There have been some examples?

**Mr Vukman**—That would be the one.

**Senator LUDLAM**—Okay. You mentioned the uranium spot price before, the world price. Only about 15 per cent of uranium is traded on the spot market; most of it is traded under long-term contracts. And in the case that Senator Joyce is representing, with a subsidiary of a Chinese mining company selling uranium to a parent company at transfer prices, the same could eventuate with the French, who have a very highly centralised nuclear industry. What would you do about that if it was entirely lawful for them to be shipping it out with no profit for years and years at a time?

**Mr Vukman**—So that represents the actual value received for the minerals and there is no revenue-shifting or transfer price issue—is that what you mean?

**Senator LUDLAM**—No, not necessarily. Because most of the world's uranium is traded under long-term contracts, it is not subject to the zigzags in the spot market. So what would you do if, say, a Chinese uranium mining company, having got control of uranium assets in the Northern Territory, was just selling at rates year on year that were not generating a profit?

**Mr Vukman**—I guess the issue would be to determine what is the true value of the uranium.

**Senator LUDLAM**—But surely that is a matter between those two contracting parties?

**Mr Vukman**—If they are unrelated parties, then we would accept that. If they were related parties, then obviously there could be an issue of the transfer price.

**Senator LUDLAM**—And what recourse do you have if you believe that that is occurring?

**Mr Vukman**—If the uranium is sold between related parties we can value the ore.

**Senator LUDLAM**—According to what? You could go into a website and find out the spot price in two minutes, but the long-term contract prices for uranium are actually notoriously difficult to establish over time.

**Mr Vukman**—In relation to related party transactions, clearly we would take the position that the onus would be on the miner to satisfy us, otherwise we would adopt a value that might be higher than what they argue it might be worth.

**Senator LUDLAM**—You base your projections on the future prospects of the uranium-mining industry. We were handed this *Inside Economics* report by Deloitte this morning. What is the NT government's view of the medium- and long-term future of the uranium-mining industry?

**Mr Sellers**—In terms of the political view?

**Senator LUDLAM**—No, pure economics. How healthy is the industry looking over the medium to long term?

**Mr Sellers**—All I can comment on is that, in terms of the recession in commodity prices, uranium has settled at a value that was higher than it has been in the last few years, and so, based on that, there is some optimism.

**Senator LUDLAM**—I do not know whether it is the role of your department to conduct this kind of policy work. Have you evaluated the assumptions underlying this document or have you just taken it as read that that is where the industry is heading?

**Mr Sellers**—Sorry, in what context?

**Senator LUDLAM**—Perhaps you do not do this kind of work, but I am asking whether you base your projections on the future revenues that might come through the uranium-mining industry?

**Mr Vukman**—I am not familiar with the report. In relation to uranium, without this bill there is an element of uncertainty about royalty regimes. I guess that is one aspect of this bill.

**Senator LUDLAM**—Okay, that is fine. I will leave it there.

**CHAIR**—Thank you for coming in this morning, gentlemen.

**Committee adjourned at 10.51 am**