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FOREIGN AFFAIRS, DEFENCE AND TRADE
REFERENCES COMMITTEE

Reference: Economic, social and political conditions in East Timor

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SENATE
FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE
Thursday, 11 November 1999

Members: Senator Hogg (*Chair*), Senator Brownhill (*Deputy Chair*), Senators Bourne, Lightfoot, Quirke and West

Participating members: Senators Abetz, Allison, Bartlett, Bolkus, Boswell, Brown, Calvert, Chapman, Cook, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Forshaw, Gibbs, Gibson, Harradine, Hutchins, Knowles, Mason, McGauran, Murphy, Parere, Payne, Tchen, Tierney and Watson

Senators in attendance: Senators Brownhill, Hogg and Quirke

Terms of reference for the inquiry:

- (a) economic, social and political conditions in East Timor including respect for human rights in the territory;
- (b) Indonesia's military presence in East Timor and reports of ongoing conflict in the territory;
- (c) the prospects for a just and lasting settlement of the East Timor conflict;
- (d) Australia's humanitarian and development assistance in East Timor;
- (e) the Timor Gap (Zone of Cooperation Treaty); and
- (f) past and present Australian Government policy toward East Timor including the issue of East Timorese self-determination.

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Committee met at 9.23 a.m.

CHAN, Dr Kenneth (Private Capacity)

CHAIR—I declare open this public meeting of the Senate Foreign Affairs, Defence and Trade References Committee, which is inquiring into East Timor. Welcome, Dr Chan.

Dr Chan—Thank you. I appear before this committee in my capacity as a former serving officer in the Department of Foreign Affairs and Trade, where I worked from 1972 until 1993, and in my capacity as a former member of the Refugee Review Tribunal, on which I served in Sydney from 1993 until 1997. I am currently retired from the Public Service.

CHAIR—The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. The committee has before it your submission. Are there any alterations or additions you would like to make to this submission?

Dr Chan—No.

CHAIR—I invite you to make an opening statement, and then we will proceed to questions.

Dr Chan—Thank you. I will make a brief statement before you raise questions. The overwhelming vote in favour of independence for East Timor has clearly shown that the people of the territory have been able to express their desire to be free of the shackles of a harsh and relentlessly oppressive regime. The ballot on 30 August 1999 exposed the lies perpetrated by the Suharto regime for more than two decades that the incorporation of the small colony as a province of Indonesia was something that could not be reversed, that the people of the territory were mostly in support of integration with Indonesia and that only a tiny recalcitrant guerilla force was holding out for independence.

For almost 25 years Australian policy towards Indonesia has chosen to accept the Suharto regime's version of the truth and to place the larger relationship with Indonesia ahead of any pursuit of a legitimate right of self-determination for the people of East Timor. As a nation we have been greatly diminished by our record of appeasement towards Indonesia, not only with regard to East Timor but also with regard to other provinces such as Irian Jaya and Aceh. And while we have stood tall in international fora and urged the promotion of human rights for all peoples, we neglected pressing for the fundamental rights of those living much closer to us.

This committee will have heard much evidence from those who have had direct observation of the turmoil in East Timor. I do not consider that I can add much to what they have already said, but what I should like to do is make some comments on Australian policy towards Indonesia, because our standards on East Timor cannot be understood without looking at how we perceived the larger relationship. Because successive Australian governments placed great emphasis on building a strong relationship with the Indonesian regime, they treated lightly its repressive record on human rights, its financial corruption and the brutal record of its military forces. This meant that Australia was too light handed when

it came to responding to specific incidents of military violence in East Timor, whether it was the shooting of innocents, forced detention, torture or rape. Even when the world learnt with revulsion and horror of the Dili massacre in 1991, Australia officially excused the regime by saying that this was, 'the aberrant behaviour' of a 'subgroup', thereby conveniently overlooking the harsh record of a military regime that had policed East Timor through terror and intimidation for 16 years.

More recently we have seen a similar tendency to give the Indonesian regime the benefit of the doubt in the way the Australian government has handled the mounting evidence that senior Indonesian military figures, including General Wiranto, were directly linked to the Indonesian army's support for the militia in East Timor. According to a report in the *Bulletin* on 12 October 1999, Australian intelligence had on 4 March 1999 assessed that:

ABRI in East Timor are clearly protecting, and in some instances operating with, militants who have threatened Australian lives . . . ABRI could apprehend or closely control pro-Indonesia militants but has chosen not to . . . [Wiranto] is at least turning a blind eye.

Yet the response of the Minister for Foreign Affairs, Mr Downer, to a question about whether the militia were being armed was that it was not 'official Indonesian government policy', nor was it being 'condoned by General Wiranto'. Instead, he suggested that there might be 'rogue elements' in the military who are 'providing arms to pro-integrationists'.

When Downer met Indonesian foreign minister Alatas on 23 February and raised the question of the army of the militia, he was, according to the same *Bulletin* report, told that this was the 'legitimate arming of auxiliaries'. But, when he was subsequently interviewed by Laurie Oakes about the meeting with Alatas, Downer said that he had been informed that it was not happening, that the Indonesian military 'weren't arming paramilitaries' and that it was not 'official Indonesian policy.' Evidence for the insidious role of the Indonesian army in East Timor was not confined to intelligence sources. A number of submissions to this committee from individuals and groups had warned of the dangerously volatile situation that was being created through the actions of the Indonesian army in arming and supporting the militia.

In not pressing Indonesia early enough or hard enough to allow a UN peacekeeping force to operate in East Timor in advance of the run-up to the ballot on 30 August, the international community, Australia included, must now bear a large financial and resource burden to repair matters in a territory where much of the infrastructure has been decimated and the dislocation of the population has been massive.

We may never know the total of East Timorese lives that have been lost in the most recent bouts of violence by the militia, but the policies of successive governments and policy advisers in Australia to foment relations with Indonesia has for too long caused us to overlook or brush aside the enormous injustices that were inflicted on the people of a territory whose only crime was to continue to struggle for independence after a forced occupation and absorption in 1975. That concludes my statement.

CHAIR—The first question I would like to pursue with you is the issue raised about the Australian intelligence of 4 March on ABRI. In a broader sense, do you believe that we have

lost the capacity to interpret the intelligence that is being given to us through our intelligence sources? Have we become numbed by events that may have taken place in other parts of the world and said, 'This really couldn't happen here' or 'We can't see this taking place as a result of the intelligence', or is it just plain blundering on our part?

Dr Chan—No, I would not interpret it as blundering. My underlying point, and the one that drives this whole process, is that we are bending backwards to be accommodating the Indonesian regime, and we had done so for two decades.

CHAIR—Why do you think we have done that? What do you think have been the motivating factors for Australia to do that? Has it been strategic, economic or trade?

Dr Chan—I would say all three factors that you have referred to are critical in the process. It has been a strategic thing, and we have certainly seen that trade initiatives and promotion have been part of the process. Certainly, in the sense of a rich and wealthy country helping a poorer neighbour, there has also been an economic interest through aid flows to that country.

CHAIR—In another sense, though, has there been a view formed by Australia—and I will put that in the broadest terms—that there is a need for a stable Indonesia on our doorstep—stable politically and stable economically—and, to that end, that having been achieved, we therefore have a strategic ally covering a fair area of our north-west approaches upon which we can rely.

Dr Chan—Yes.

CHAIR—Really, it is because of our northern exposure there that successive governments in Australia over a long period have been driven by the overriding view of the strategic value and strategic necessity of the relationship, without in any way downplaying the social, political and other issues that arise. I think they are important as well.

Dr Chan—Yes.

CHAIR—What is your view?

Dr Chan—I feel that perhaps too much weight has been given to the strategic and stability in the sense of equating stability with control. The record of the Indonesian regime, ever since Suharto came to power in the brutal massacres of 1965, has been one of repression and keeping the thumbs down on the people of Indonesia. I think that we have mistaken or given too much emphasis to stability in the sense of control, and have allowed this to move into authoritarian and very dominating, repressive control without being too worried about that process. We have said that this is necessary in the interests of a stable Indonesia, but I think that was a mistaken approach to have taken.

CHAIR—The reason I raise that is because what is emerging now is the instability within Indonesia itself. You mentioned Aceh, but there is Ambon, West Kalimantan and Irian Jaya, and there is now the push for a vote on the determination of independence for Aceh. Are we equipped to deal with the emerging circumstances that are occurring in

Indonesia from a policy perspective, or do we have gaps in our foreign policy in your view which need to be plugged up very quickly?

Dr Chan—I think we have to get rid of the lead burden we have put on our own shoulders in policy terms in the sense of being too accommodating towards the Indonesian regime. We need to look at specific situations in the country and ask ourselves honestly, because, if these are democratic processes that emanate from people feeling they have been hard done by, then we have to let those processes work themselves out. I do not think that we can ever control. I do not think that any outside country can ever control what happens to a country as massive as Indonesia. Those are things that it will have to work out for itself through its leadership and its people.

I think we can help that process by not dealing only at the top, but trying to understand those processes that are going on. There is a drive for free expression. There is a drive for greater equity in the country, because this is a country where resources are being very unfairly distributed and where there have been enormous economic problems because of the corruption and because of the way money has been filtered into the hands of a handful of people and not distributed fairly.

These are equity issues that need to be seriously addressed in that country. We should be trying to encourage that process internationally through bodies like the World Bank and the IMF, but also through our policy processes as diplomatic representatives in the country and through our governmental processes in this country.

CHAIR—On the emerging regime in Indonesia currently, there is a process of democratisation taking place. I think one would have to concede that it is a fragile process at best. Do you believe we are in a position, not to assist that process but to complement that process, rather than it being seen in condescending terms by the Indonesians, and that there is a complementarity from our policy, rather than the previous view that they had of us as kowtowing to them? What do we need to do there?

Dr Chan—We need to let the current leadership know that we support a freeing up of their political processes and that we support an economic system that is fairer in the country. These are the things that should drive the way we deal and engage with the Indonesian leadership. It is always going to be beyond the resources of a small country like ours to do an enormous amount to try and shape all that, but what we should be doing in international forums is encouraging others to push those as the prerogatives of policy in response to what is going on in Indonesia.

CHAIR—In the Indonesian view of Australia, one would assume that on the world stage they see us as a minor player. Nonetheless, they see us as a close neighbour and, therefore, they are not totally dismissive of us. The overriding force has been the United States, and yet it seems that the United States was not fully informed by us of the emerging situation in East Timor. There is a need for the US to play a continuing and dominant role in ensuring the processes that are already in train in East Timor and Indonesia for the repatriation of the refugees, et cetera, continue.

Whilst we might like to think we are a big fish in the ocean, the Indonesians will effectively ignore us but will be, at least, prepared to sit back and listen to the clout that is delivered by the United States. How important is the role of the United States? What should the United States be doing in terms of ensuring as best they can political and social stability within Indonesia and support for the processes that are taking place in East Timor?

Dr Chan—I would hope that the best endeavours of the US would be to encourage a democratic process to unfold in Indonesia, the promotion of human rights and the promotion of a process that gives the people of Indonesia a genuine voice in their own affairs. Just reading the sort of recent developments that have unfolded in the country, I sense that is the direction in which US policy has been moving, but I did read—I think it was in the *Bulletin*—one slightly disturbing note where the Assistant Secretary of State, Mr Roth, said that he hoped Indonesia could work out a reasonable and fair position on East Timor because this would then enable the US to resume its military ties with Indonesia.

That statement caught my eye and alarmed me, I must say. We have been caught a bit in that trap too. We have promoted military training as one of the main arms of our relationship with Indonesia and, in the past, so has the US. I am not sure that that is necessarily the best use of our resources, limited as they are, and I am not sure that that is the best use of US resources to encourage democratic processes in Indonesia.

CHAIR—There is a heavy burden on the United States in this area, even though it is not of major strategic value to the United States. We are not capable of filling the void, if I can call it that. That is my view. We have a significant role to play, but it is nowhere near the dominant role that the United States plays. How do we keep the pressure on the United States to understand the importance of the Indonesian archipelago from both a strategic point of view and an economic point of view, or is the United States now too far removed and starting to retreat to their own shores because of domestic issues?

Dr Chan—I think you are absolutely right when you say that, in the global sweep of things, Indonesia is relatively small fish for a country like America. I do not know whether much can be done about that. It is a country which has an enormous economic and strategic reach, and it uses it in all kinds of different situations, sometimes for good and sometimes for bad. I do not think we need to be too concerned about locking America into this process. We should be encouraging a process that involves the countries of our region more—that involves dialogue and consultation with the countries of our region and that involves our greater engagement with our Asian neighbours.

That is the way we should be pursuing our future options. If we always say that we will have to count on the US to move in one direction or another, we become very much the junior to a larger relationship, and we wait on the US calling the shots in a region where our capacity to understand what is going on—to have our ears to the ground—is much better than that of the US. We have trained Indonesian speakers in this country; we have people who are very familiar with the terrain; we have people who have worked as aid workers in the country.

We have had a very active process, limited in financial terms, in terms of the spread of people. We should be listening to those people more. A number of the submissions this

committee received from those people who have worked on the ground over many years say very sensible and worthy things about what should be done in the country. We as policy makers, the senior bureaucracy, should be listening to those statements much more than we have in the past.

Senator BROWNHILL—The feeling that hundreds of thousands of people have been massacred has concerned me all through this inquiry. What is your opinion there? Has there been a genocidal approach to East Timor by Indonesia, or have a lot of people just been allocated different living areas in West Timor and in Indonesia?

Dr Chan—Are you asking about the most recent developments of the past six months or are you talking about the last 20-odd years?

Senator BROWNHILL—I am asking about the last 20-odd years, and then there is the last year or so, especially the period leading up to the referendum and after the referendum.

Dr Chan—The jury would be out on the most recent developments of the past few months. A lot of figures have been thrown around, and it is very easy in the heat and emotion of the current situation to get wildly disparate figures about what has been going on. We have to proceed with reasonable sanity on that sort of thing. On the wider record of the last 25 years, I do not have any doubt there has been a massive killing on a horrendous scale. Whether we talk about 200,000 or 80,000 people, we are talking about the murder of innocent people, and I think that constitutes genocide.

Senator BROWNHILL—You have said you thought the figure was 200,000.

Dr Chan—Yes.

Senator BROWNHILL—What do you think is the real population? Do you think it is the population of the census that was done before the referendum—that is, 700,000 people should be living in East Timor? Do you have any idea?

Dr Chan—Most of the experts who have done the sums acknowledge in a preface that the figures are not accurate and that it is very difficult to gauge. We would have to work with figures that are therefore within a range rather than any specific figures. I do not think people can say accurately, ‘This is definitely what the population of East Timor was at point A or point B.’ Most people seem to use figures that range between about 800,000 and 900,000 people.

Senator BROWNHILL—In your paper you make a point about a \$300 million input from Portugal in the short term to keep the country going. What sort of input do you think is going to be forthcoming from Portugal—you said \$300 million, but do you still think the same way? What is it going to cost Australia in the next few years, with the cost of the peacekeeping force and that sort of thing? Do you think Portugal will have a long-term interest in East Timor if it is costing them money?

Dr Chan—I do not have any expertise on the sorts of costs that you raise in your question, and I do not profess to even hazard a guess. I think we all know that it is going to

cost this government or the Australian people hundreds of millions of dollars, if not more. One point about Portugal is that it is part of the European Community, and therefore it has contacts and a voice within a wider network that is very richly resourced. It is dealing with, and is able to deal with, a range of countries on its doorstep that have an enormous amount to give. East Timor has raised a lot of sympathy and support globally. If Portugal can lock itself into European Community support for regeneration processes in East Timor through aid flows, investment, expertise and so on, then this is a desirable and good thing and something that we should be encouraging it to do as much as possible.

Senator BROWNHILL—If Portugal finds that it is going to require an input of money for some considerable time and the people of Portugal are losing their own infrastructure in Portugal, I wonder whether they might lose interest. It is a long way away. If that happened, in your mind, would that cause instability? The chairman asked questions earlier about all the other little areas that may be going for independence. Therefore, Australia will have very unstable northern borders, having thought that it was a stable part of the world.

Dr Chan—On the question of Portugal and its capacity to generate resources within itself, obviously it is a much poorer neighbour compared with other European countries such as Germany or even Spain. It is not on that level. It does not have a GNP per head anywhere near theirs. But I believe it does have a longstanding commitment to a stable and progressive East Timor. If it can operate through its EC network, then it will be able to bring resources to bear on this situation. One thing we do need to keep in mind is that we are not talking about a very large country. A country of 800,000 or 900,000 is not huge. Well-targeted programs of development can make an enormous difference. Even a relatively small amount can, if targeted properly, make an enormous difference at a regional village rural level. The sensible and selective use of financial resources can make a big difference to a country that is not very large.

Senator BROWNHILL—I guess the transitional period for setting up government or self-rule in East Timor is going to be very important. Apparently, in the past, it has always had a lot of public servants per capita. Obviously, I am talking about the economy of the country. It is going to be very important. If it is going to be stable, it will have to be either economically resilient or self-sustainable. That is the reason I am interested in that.

Yesterday I read an article by Paul Daley in the *Melbourne Age* entitled, 'Economic forecast fine for East Timor'. He made the point that a World Bank official had said that there were good prospects for economic growth. He went on to say:

. . . Sarah Cliffe, who has just completed an appraisal of the East Timorese economy, also warned that the administration of the newly independent nation should be much leaner than under the previous Indonesian system.

I wonder whether that will be the expectation of the people in East Timor. In other words, are they going to be happy when they find that there are going to be some hardships attached to their independence? That is where I am coming from and trying to get your wisdom. There are things like land ownership in East Timor. Apparently, a lot of the country is owned by the Suharto family—in other words, owned by Indonesia. East Timor needs to have a good relationship with Indonesia, as far as the economy is concerned. Is the land owned by the Suharto family going to come back to the East Timorese? Have you got any

thoughts on those bits of chaff I have thrown into the wind there? There are about six questions, I guess.

Dr Chan—The first thing that has to be acknowledged in this is that we are talking about a people who, for 25 years, had to endure an enormous amount of brutality, repression and a very unfair imposition on them politically. The very notion that they will now be building something for themselves will make a great difference to the way they approach their own development. It was a poor country when it was invaded by Indonesia, and it has been a poor country for the last 25 years. This is not to deny that the Indonesian government has poured quite a bit of resources into the country financially, but it does not seem to have made that much difference.

Part of it has been political oppression and the fact that you have had a very menacing military presence there. Part of it has been that a lot of it has flowed from public service moneys, which have been basically Indonesian, non-East Timorese, and a lot of those moneys have probably flowed back out of the economy. I think it makes a big difference if you are building a country for yourself, and this is the new situation that the people will face. I do not think that the people who live there will not be aware of the hardships that they face, but they have had to endure hardships for 25 years anyway. Their nation building for themselves will make a big difference.

Senator BROWNHILL—One other part of your submission was the Timor Gap Treaty and the fact that it was a treaty negotiated between Indonesia and Australia. There was some unwritten preamble so that Gareth Evans understood that if ever there were a separation of East Timor they would get their fair share out of that part of the Timor Gap that would be applicable to the boundaries, as ascribed by that petition. How is that going to happen, and how important is that to East Timor's future?

Dr Chan—The projections of the resources from the Timor Gap Treaty suggested it was going to take some years for it to happen and that in fact the level of resource was not as large as perhaps some commentators had made out. The only point I was trying to make in my submission is that this treaty was done without the compliance of and any role by the people of East Timor. If it is renegotiated, it should now be something that involves them fully and cuts Indonesia out of the picture. Whether or not it is going to involve an enormous bounty in subsequent years I do not know, but the important point is that they own those resources and have a fair share in them in any future negotiation. That was my point.

Senator QUIRKE—I note that, in your letter to the secretary of the committee, you indicated that you worked for three years in New York with the Australian mission at the UN on decolonisation. Taking some of the questions a little further, considering places like Irian Jaya and probably to a lesser extent Aceh, how many of those places with such limited resources have ever made the transition to independence? I will put that another way: would Irian Jaya be a viable prospect if it were to go out on its own?

Dr Chan—With small economies that have limited capacities, you are always going to raise that question of whether they can survive as independent entities. But you need to turn the searchlight onto a wider spectrum and look at all kinds of small island states that exist around the world and closer to our shores in the Pacific and realise that many of the islands

of the Pacific that are independent nations are very tiny and, you might say, in some ways economically fragile. But the important thing is that, if there is a drive for self-determination and independence in those countries, why should people be denied that opportunity? That is the critical question.

You have to look at the circumstances in which people have been absorbed or taken over, at whether or not their press for freedom is something that they genuinely hold, and at where we stand on that issue. If we believe that human rights are something that are worth promoting globally, we should be looking seriously at these questions in the wider context.

Senator QUIRKE—Australian policy for the past 60 years has been basically to wrap up ex-colonies in South-East Asia into Indonesia. We saw that with Irian Jaya, and that was the view about East Timor until virtually this year. Yet that policy now seems to be totally unravelling. To what extent do you think Australia should reappraise that policy and look particularly at some of the earlier decisions, such as the one to incorporate Irian Jaya within Indonesia?

Dr Chan—There is a very real sense in which you cannot wind the clock back in every situation and therefore you cannot fight, as it were, the battles of past history and say, ‘It should have been like this, and therefore we will make that situation right.’ All I would say is that, if there are genuine movements for freedom still going on, and if there are situations where a particular regime, such as the Indonesian one, has been enormously repressive for 20- or 30-odd years, we should be looking at processes that discourage repression and promote a genuine move for human rights and freedom.

It seems to me that part of the problem in Indonesia is that too much policy has been driven from the centre in Jakarta, with too little attention paid to poorer regions. A lot of the antagonisms that have built up in the country have built up because the regional voice has been silenced or not given a hearing. This suggests a very uneven distribution of resources and power in that country.

Senator QUIRKE—In your submission, you run through the arguments about the level of resources which Jakarta has provided to East Timor, and you make the point that there is not much to be shown for that. As I understand it, the GNP per capita in East Timor is only five per cent of that the rest of Indonesia. Was most of the money simply spent on employing Indonesian civil servants who were over there for a while and who afterwards returned?

Dr Chan—To be fair to the Indonesian government, firstly, there was quite a sizeable amount of money put into the province and, secondly, it is certainly true that a lot of it was money funnelled to the salaries of soldiers and public servants there, who were not from East Timor. But, if you look at the submission that AusAID gave to this committee, it presents a reasonable picture that the government did try to put some infrastructure of a sensible kind in there. They built a lot of schools and in fact increased the number of schools in East Timor enormously, compared with the situation pre-1975. Whether or not the government then directed resource flows in the most sensible way or actually utilised money in the best way is a much thornier issue.

There is some suggestion that a lot of the funds that were earmarked for East Timor ended up being unspent, so that there was not a very efficient use of moneys that were earmarked for that province. This may have been due to a very inefficient bureaucratic process in the country, but I think it also had a lot to do with the way in which the regime chose to run East Timor.

CHAIR—There are two further issues I want to pursue. We have had witnesses appear before this committee and refer to 1,500 asylum seekers. I am aware of your experience on the refugee tribunal. It seems, from what these people say, that these 1,500 asylum seekers are in a state of suspended animation in terms of where they are going. They are going nowhere. We were pressed that there was a need for the government to determine their status—because, until their status is determined, they cannot access educational facilities in this country.

It was put to us that many of these were younger people who were forced to flee East Timor—because they were from a more educated background and had therefore become more active in the political field within East Timor—and had fled to Australia. They are desirous of going back but cannot access the appropriate educational facilities, because their status has not been determined. Can you see any reason why their status should not be determined? What would be a reasonable outcome, if they are not necessarily being granted Australian citizenship? Is there some intermediate stage, whereby they could be covered by the minister for immigration, that would enable them to pursue tertiary studies here and then return to East Timor to participate in the reconstruction?

Dr Chan—I think it is being very unfair to keep people—1,500 people, you say—on hold for so many years. The current government has a policy which moves too far in the direction of being tough-minded on the refugee issue, ignoring the fact that we have an international convention that we are a party to, whereby we will try to do our best to alleviate the problems of refugees globally. We only do a very tiny slice of that, in terms of how many people we take. If you have got people from East Timor who have been put on hold for so long, the fair thing would be to have a once-only grant of amnesty to them and allow them to remain here. Whether they choose to go back and contribute to their own country eventually will be for them to determine; but I do not think that, in all fairness, we should keep people on hold indefinitely and not come to a decision of this issue. Both the previous government and the current government, because of a desire to be too accommodating to the Indonesian regime, have kept their hands in their pockets on this issue for too long.

CHAIR—So what would be the obstacles, in your view, to giving these people the status that you have just outlined?

Dr Chan—It only requires a government decision that they agree to do this. There are not many obstacles that I can see.

CHAIR—The last issue that I want to touch on is one that you touched on earlier, but I will put it in a different style to you. At another inquiry by this committee some time ago, a very worldly person appeared before us and told us that there are two views of international politics. They described the five-star view, which is a view that is formed by DFAT officers

and the like—and I am not saying this disparagingly—who may well stay in the Hilton or the Sheraton, and the two-star view, which is formed by those battlers who are out there in the international marketplace trying to make their way through a myriad of government regulations and relationships within governments and so on. How true do you think it is that there are these two views: the five-star view and the two-star view? And do the people who are subject to the five-star view necessarily ever get to relate to the two-star view—that is, to the view of the common people, the people in the street, so to speak—or are we becoming too detached from everyday opinion because of the nature of technology and bureaucracy and everything else such that this does not then lead to the good advice that should be given to government?

Dr Chan—I think one of the traps that you can fall into in a diplomatic career is that it is always much easier to deal with your counterparts who are part of an elite and represent perhaps a certain core voice of leadership. It is much easier to operate on that level and ignore other groups and other voices. It is a trap that you have to be careful of and need to avoid as much as possible—you need to listen to many voices. In the case of Indonesia, I think the problem is that we have been too much driven by dealing with elites and too little driven by not listening to grassroots voices, whether they are the grassroots voices in Indonesia itself or the grassroots voices within this country. I think that is something we need to pay much more attention to.

CHAIR—Being more specific, does DFAT listen enough to NGOs and to other people who have experience on the ground or does it tend to dismiss those views?

Dr Chan—It gives them a hearing—which is different from listening to them, in the sense that NGOs can and do approach the foreign affairs department and report. But for too long it seems that insufficient account has been taken of what people on the ground have been saying on many of these issues. I think that is something that needs to be rectified and addressed.

CHAIR—Thank you very much. We appreciate the evidence that you have given to the committee this morning and we will take it into consideration when we are compiling our final report.

Proceedings suspended from 10.14 a.m. to 10.25 a.m.

CLARKE, Air Commodore Kerry Francis, Director-General of Joint Operations, Department of Defence

SCRAFTON, Mr Michael John, Head, East Timor Policy Unit, Department of Defence

CHAIR—I welcome officers of the Department of Defence. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. You will not be required to comment on reasons for certain policy decisions or on the advice that you have tendered in the formulation of policy or to express a personal opinion on matters of policy. The committee has before it your department's submission. Are there any alterations or additions you would like to make to the submission at this stage?

Mr Scrafton—No.

CHAIR—I now invite you to make an opening statement and then we will proceed to questions.

Air Cdre Clarke—I would like to make a brief opening statement. Aside from regular visits to East Timor by our defence attache staff from Jakarta, direct military involvement in East Timor in support of government policy started with the positioning of a small number of military liaison officers in the United Nations mission in East Timor to observe military preparations for the consultation on autonomy. The first personnel were deployed around 25 June this year. In a broad sense, that was followed later by evacuation—after the violence following the autonomy vote—of Australians, United Nations personnel and a number of internally displaced personnel who were sheltering in the United Nations compound. That occurred from the 10th of September.

The direct military involvement has culminated obviously in today's contribution to what is called INTERFET, the International Force East Timor, of which there are around 9½ thousand military personnel on the ground including 5,300 Australians. The Australians comprise Army, Navy and Air Force elements. The coalition forming INTERFET is led by Australia and consists at this stage of 16 nations with a further five who may commit forces or force element groups to it during its duration.

INTERFET was established under United Nations Security Council resolution 1264. It is responsible for restoring peace and security. The support of UNAMET and now UNTAET—the United Nations mission in East Timor and the subsequently established United Nations Transitional Authority East Timor—adds to the force capabilities of facilitating humanitarian assistance to the East Timorese. On the 25th of October the United Nations Security Council passed United Nations Security Council resolution 1272, which established UNTAET. It had three components: a governance and public administration component, the humanitarian and emergency rehabilitation component, and a military component of up to 8,950 personnel and an additional 200 military observers. Australia plans to contribute to both those elements of the UNTAET mandate.

The period from July to November has been one of the most demanding and dynamic in the recent history of Defence. The success of the evacuation and of INTERFET is a matter of public record and has brought wide acclaim to defence personnel and to the defence department, both on the international record and on the public record. Defence is justifiably proud of that activity. It has been my personal pleasure to be a part of that process.

CHAIR—Mr Scrafton, do you have any statement to make?

Mr Scrafton—No.

Senator BROWNHILL—Can I start by congratulating the defence forces on their preparedness and their ability to carry out their functions since they have been in East Timor in a very professional way. As an Australian citizen I can feel justifiably proud that we are being represented overseas in quite a desperate situation in a way that makes me want to hold my hand over my heart a little, and it gives me a great feeling of pride. Obviously there must be a lot of differences, not that we are militarily antagonistic towards Indonesia but we have been training with Indonesian troops, so has there been any concern on behalf of Defence about the fact that a country that is very close to our northern shores that we have been having close military cooperation with and with which we are now in a different type of situation?

Air Cdre Clarke—At no stage was Australia attempting to fight against the TNI in any way. In fact, without the cooperation and the baseline relationship that we had established, the introduction of military observers and in fact the evacuation of Australian UN and internationally displaced personnel could not have occurred. The TNI were very cooperative in that activity and that was, perhaps, at odds with the some of the public's view of TNI.

Senator BROWNHILL—I was trying to give you some way of correcting some of the public perceptions of what has been going on.

Air Cdre Clarke—The personal relationships on the ground in Dili were absolutely pivotal to the success of that activity and to the success of the initial footprint of INTERFET on the ground. The relationship between the TNI commander at the time and General Cosgrove was professional and effective, and we are justifiably proud that the TNI cohabited with INTERFET and, in fact, that they subsequently withdrew after the MPR decision without any confrontation between TNI and INTERFET personnel. So, the basis of a relationship that has formed over the years stood us in good stead at the time.

Mr Scrafton—I will just take this opportunity to put that into a slightly broader context for you. There are now, as a consequence of the political situation, some strains on the relationship. But, if you step back a little further from East Timor to the events in Indonesia over the last couple of years, last year when we were looking at the safety of Australian citizens in Jakarta when the Suharto regime fell and there were very difficult situations in Jakarta itself, it was largely as a consequence of the good relationship we had built up that the Indonesians did something very unusual in terms of international relations through the TNI and gave us blanket clearance for our aircraft and helicopters in preparation for a possible evacuation. So, in our view, there have been very clear benefits to Australia's

objectives in the region out of the relationship, not least of which were the ways in which we managed to handle the relationship in East Timor when things got tough there.

Senator BROWNHILL—Do you think that it is too easy and glib to say the Australian peacekeeping force rather than the United Nations peacekeeping force or transition force—or whatever words you want to use? Do you think there has been a misconception by people at large in Australia? Has there been any misunderstanding by the Indonesian forces that you are a part of the United Nations outfit?

Air Cdre Clarke—We do not have any evidence that that is the case. I think there is no doubt that early on in the deployment of INTERFET it was primarily Australian. If you look at the numbers that I have just read, of a force of about 9½ thousand, just over half are Australian and the rest are coalition partners. It is very much a multinational force now, and Indonesia recognises it as such, as do the United Nations.

Senator BROWNHILL—How long do you believe it is going to be in that sort of mode?

Air Cdre Clarke—INTERFET was established as a transitional arrangement. In establishing the mandate at the time, the United Nations understood that they themselves could not get an international force together in the time frame that was necessary to solve the humanitarian crisis occurring. The need for security was paramount, and it needed to happen very quickly. Australia was in the position to be able to lead a force, and we undertook to build the coalition force while the United Nations got themselves in good order. That process is ongoing. The establishment of UNSCR 1272 is a step in that activity, and the United Nations are currently planning to bring a coalition force in. There will be a number of coalition partners who will transition from the current INTERFET force to the United Nations UNTAET force—around 60 per cent or 70 per cent. That process is ongoing but, of course, to put an end date on it is not easy. The Australian government's position is that we want it to occur as soon as possible, and that is what we are working towards.

Mr Scrafton—I will just add that I think there was some confusion earlier on as to the nature of the operation, that this is not in fact a United Nations operation that INTERFET is undertaking but an operation under a mandate given by the United Nations. I think there was a considerable misunderstanding about the distinction between a normal blue helmeted United Nations operation and this sort of coalition of forces, which is more similar to the sorts of things that were done in Haiti and Somalia than to the sorts of activities that have occurred in other places where the UN have been directly administratively controlling the operation.

Senator BROWNHILL—As we have that goodwill, if you like, as you have just said, do you think there is going to be a change in the attitude there as the humanitarian issues are unearthed?

Mr Scrafton—I think one of the aspects of this that needs to be borne in mind is that the Indonesian defence forces are not one cohesive group of people. Even during the activities that were taking place in East Timor—which at least had the passive acceptance of TNI if not, with some elements, assistance—there were still considerable elements that we

were aware of in TNI in Jakarta and in other places who disapproved of the activities that were taking place there. That is particularly so of their air force and naval personnel, who have less direct historical connections with East Timor, but even for the considerable parts of the reform elements in TNI itself. So, again, I think there will be a fractured response to the way in which the Indonesian armed forces respond to the crimes against humanity investigations.

There are very clear indications from the Indonesian government at the moment that they are taking these things very seriously. Their own independent commission has issued a very strong statement recently on this, and our understanding is that this is a first step in a series of strong statements that will lead up to some sort of action by their government against what they consider to be criminal activities in East Timor. Again, it is not easy question to answer. There will be people in the Indonesian armed forces who will be, to some extent, concerned because the investigations might focus on them. There will be people who will feel a little of the betrayal that some of them feel in the sense that we handled this perhaps a bit more heavy-handedly than we might have done, as a close friend. But there will still be a whole range of elements within their structure who will see this as an appropriate activity. So there is no clear answer to that question.

Senator BROWNHILL—My last question for the moment is on the defence wider assessment of the region—this is not a policy question, it is purely defence—and the fact that we have had good relationships, and hopefully they will continue, with Indonesia. If we have a lot of independent states—we have one now and we may have more—that obviously creates a much deeper question for Defence than having one neighbour who we were doing joint military exercises with.

Mr Scrafton—Very clearly the view of a succession of governments has been that a large unitary state that was prosperous and stable in the archipelago is much more in our security interests than a larger number of states which we would have to manage in a much more complex environment. At this stage I think our general assessment would be that to a very large extent East Timor is a separate case in that the United Nations never recognised Indonesia's sovereignty and the question of whether it was going to break away or not was always a question. I think we are less concerned at this point in our assessment about other parts of Indonesia separating off. But these are certainly a range of issues that will be being looked at in the current white paper that we are developing for the government at the moment.

Senator QUIRKE—I was actually quite relaxed until you gave that answer to that question. It seems to me that that is exactly what went wrong with Timor, that in fact there was a view around here by bureaucrats that fed into governments of both persuasions that even on the day Timor would be able to incorporate into Indonesia quietly, that it would be done with less violence, and then when the violence was there it was always going to be tomorrow when things would get better—and they never got any better. The argument you have just put forward, unless I am wrong, is that, because this place used to belong to Portugal, it is in a slightly different category. I put it to you that in fact most of the bits which constitute Indonesia in the greater sense have become Javanese colonies. I think it is very wishful thinking if you assume that Timor is going to be the only bit of this conglomerate to our north that is going to go its own way. If you are basing policy on that, I

suggest that you had better think again, because that is exactly what has gone wrong here for the last 30 or 40 years, or longer.

Mr Scrafton—I might just clarify that I did not make an argument on that point. What I stated was that successive governments' policies have recognised that as a factor in our strategic environment and that there is in international law a difference between East Timor's status and the rest of Indonesia. I accept completely your position that there is no guarantee one way or the other about the way in which events might evolve to the north of us. I am simply making a point that successive governments for over 40 years now have accepted the judgment that our interests were better served by a unitary state. Whether that is in fact the future point is not something any of us can predict and not something that we are basing policy on.

Senator QUIRKE—There is no doubt that successive governments have taken the view that one state up there instead of a large number is definitely in our interests. That is how we got into this Timor mess. That is how we turned a blind eye to all the myriad amounts of intelligence that came over government ministers's desks in governments from both sides of parliament. Maybe bureaucrats do not even feed it in there; I do not know. But at the end of the day we turned a blind eye to what has gone on up there. It blew up in our face. I put it you that I do not think too many of the Indonesian provinces read international law and I do not think they are going to like the fine differences that you are making on this.

I think it would be wise for Australia to have a number of contingency plans, because I suspect that Timor is not going to be the only place up there that is going to prove this policy wrong. I would suggest to you that we will have to varying degrees interests in what happens in Irian Jaya; in Aceh, which arguably is well outside of the region and I accept that, but the implications of it are considerable; in Sulawesi; and in a number of other places where you see movements for much greater autonomy. I think after Timor they will not settle for much less than full independence.

Mr Scrafton—I do not disagree with you at all. I might add that most of those issues are issues for my colleagues in the Department of Foreign Affairs and Trade to deal with. In our context, as a defence organisation we certainly plan on a range of contingencies. One of the traps we cannot fall into is predicting the future, because that always leaves you in the wrong position. So defence planning is in general planned on a range of contingencies. The question of what sort of position government takes on the outcomes of the sorts of things you are talking about really is not a defence issue to be dealt with.

Senator QUIRKE—It will affect defence procurement, though, won't it?

Mr Scrafton—The possibility of these things certainly affects the way we plan and structure our force. I have indicated that we are in the process, as a consequence of a range of things that have happened over the last couple of years, including the financial crisis that has in a sense led to all of this, of developing a white paper at the moment in Defence for government consideration some time next year. We are certainly apprised of the sorts of issues you are discussing. In a sense questions about the policy the government takes towards that is really for the Department of Foreign Affairs and Trade to manage.

CHAIR—The first question I want to go to is an issue that was raised with us at our hearing in Sydney a week ago today by the Australian section of the International Commission of Jurists. They put to us in their submission the need to protect the evidence that will be uncovered by the INTERFET force as it moves through East Timor, where there have been human rights abuses. They are saying that the evidence should not be contaminated, and by contaminated I mean touched by people who do not have the skills to deal with this. They are very concerned about that.

They put to us that they had approached the Department of Defence offering their assistance by making available to the Department of Defence—I cannot give you an exact date but I understand it was very early on in the piece—forensic experts to assist our forces at least, and I would assume that would flow over to the other INTERFET forces, once they had been landed in East Timor. Their claim to us was that basically they had made four attempts to contact the department. They even gave us the name of the person they contacted, Mr Geoff Early. I do not know Mr Early from a bar of soap. To their amazement, there was no response from the department of defence, in spite of their four attempts to be in touch with the department. I have only got notes, I have not got the *Hansard*, but my memory is that they found out some way or other that there was an inter-departmental committee of AG's, DFAT and the Department of Defence on this issue. It seems to me that here were a group of people with a degree of expertise in an area where they obviously practise offering their assistance and, in spite of their good intentions, they seem to be ignored by the department. Why would that be?

Air Cdre Clarke—When INTERFET first put its footprint on the ground, its prime concern was providing a security environment. The second step past that was to provide an environment which allowed basic humanitarian support to the East Timorese—food, water, and shelter. Our prime focus in the first six weeks of the deployment has been to achieve widespread security, to allow people to move back to their home locations and for them to then be provided through NGO services with the basic necessities of life.

CHAIR—I accept that, but one must also accept that if one is going into an area where—to put it bluntly—there was apparent genocide at worst, but at best there was a complete abuse of human rights by the militia and supported by the TNI, this would become an issue. It would seem that it would be elementary to take at least some preliminary steps to ensure or that either there was a specialised group within our forces or a broader understanding of the need to protect the forensic evidence that would be needed for the humanitarian crimes, given the scale of what happened post the consultation.

I am just very surprised. I understand the security aspect and I understand the support aspect, and I am not in any way trying to denigrate that. It is just that, because of the nature of the reaction of the military and the militia post that consultation, one would have thought that, where we are taking a reasonable and leading role, the concerns of the International Commission of Jurists would have been addressed in some way.

Air Cdre Clarke—I was not directly involved in the contact, but my memory was that this group was referred to the United Nations. You will recall that at the same time INTERFET was on the ground, UNAMET, the United Nations mission in East Timor, was still established and still had a mandate. Also UNHCR and OCHR were also coming onto

the ground. My memory was that this group was referred to those organisations to provide the assistance that was necessary to fulfil the requirement which you have correctly identified. INTERFET's mandate and task was not about forensic support, but those organisations clearly had under their existing mandates capabilities to do those things.

CHAIR—I accept that, but nonetheless it would seem that, if one was going into this environment, one would have at least taken the precaution of briefing our forces on the need to protect forensic evidence. Did we do that?

Air Cdre Clarke—Yes, we did, and we established a small team to investigate reports and to document locations and evidence. You would be aware of a number of sites that INTERFET has gone to as a result of advice they have received from either the local population or from other sources. They now have a documented trail which is to be handed over—and in fact, is being handed over right now—to the UN as they get their forces and forensic experts on the ground. We were sensitive to the issue, but we certainly did not have a great forensic resource to be able to go and do it and do the detailed sorts of investigations that perhaps you are anticipating the jurists could have provided the resource for.

CHAIR—Their submission to us was that they were prepared to offer this service to the Department of Defence. Was the offer of the International Commission of Jurists raised at the interdepartmental committee with A-G's, DFAT and the Department of Defence?

Mr Scrafton—It was. That interdepartmental committee is a standing group, a strategic policy coordination group, that DFAT or PM&C chair. It involves most of the departments involved. It was discussed. What needs to be borne in mind is that this was very much early on in the operation. There was very little understanding of what was actually happening on the ground there. There were very huge demands on INTERFET and a lack of clarity about where the internally displaced people were. In fact, we were finding whole villages which were completely deserted and people had disappeared. There was a range of issues that influenced the decision of that group to recommend that the offer not be taken up. I am not aware of what the mechanics were of advising them, and if that has fallen down, that is one thing.

CHAIR—Did anyone actually bother to go back to the International Commission of Jurists to advise them?

Mr Scrafton—I am not aware of that. Commodore Earley is Director-General of our Defence Legal Office. I would be surprised if he had not gone back, but I am not aware of the details of his communications with them. As a consequence of the issue being raised by the International Commission of Jurists, the action was taken that Kerry has just mentioned, that is, advising INTERFET that they would have to keep a record of whatever they discovered, make whatever inquiries they could at the time, and in preparation for handing over what was already starting to have the appearance of a United Nations investigation into crimes against humanity, they have been keeping that information and will hand it across.

CHAIR—Is there a section within the defence forces that looks specifically on a permanent basis at the issue of forensic evidence?

Air Cdre Clarke—No, there is not. The only sort of forensic capability that exists relates to our own surgical capability for our own hospital/medical uses. We do not have an investigation capability that you refer to.

CHAIR—It seemed to me that the level of assistance that was being offered by the International Commission of Jurists was of the highest standard. They were talking about the Victorian Forensic Institute, which apparently was prepared to participate. I know the horse has bolted now, so I am not trying to shut the gate afterwards. It seemed to me that these people had made four attempts and there was no response to them. They are a fairly responsible group in our community.

Can you find out for me what efforts were made to communicate to the International Commission of Jurists the findings of your interdepartmental committee and/or from Defence itself? Can you let us know what training we may have imparted through our component of INTERFET to the other nations of the multinational force on the issue of the importance of the maintenance of the forensic evidence that is being uncovered? As I say, they have expressed to us a grave concern about the contamination of evidence and that this may in some way inhibit the pursuit of the crimes against humanity which have been committed in East Timor as such.

Mr Scrafton—Can I just add that the UN commission, Mary Robinson's commission, has special rapporteurs in East Timor at the moment and they have commented very positively on the processes that have been put in place by General Cosgrove to manage the evidence, but we will follow up your questions.

CHAIR—Thank you for that. I now invite people to stand and observe one minute's silence in memory of those who have fallen in war.

The committee having observed one minute's silence—

Lest we forget. Thank you.

To finish up on the forensic side: as we have extended the security of East Timor more, has there been a need for greater forensic involvement by our forces, or are we more or less simply still concentrating on those priorities that you outlined earlier—the security support and the rebuilding of the basic facilities?

Air Cdre Clarke—We are still concentrating primarily on that and facilitating the return of displaced personnel to their homes. As Michael Scrafton has said, the UNHCR delegation is on the ground. Mary Robinson's team is moving. They are bringing the sorts of skills sets that the jurists offered. They are moving into theatre and, because we now have a secure environment, they are looking at our evidence and then moving to the locations that they see as priorities as a result of that.

Mr Scrafton—I add that, in the interdepartmental consideration, one of the issues was the extent of the INTERFET mandate which, you might recall, gave responsibility—however realistic it was—to Indonesia to actually manage a legal administration on the ground in East

Timor. So there was a range of issues that impacted on the decision of how, in the early days, it was possible to support these sorts of activities.

CHAIR—The second issue that I want to raise is, again, an issue that has been raised by a number of groups before this inquiry—that is the role of the Australian defence forces as part of our cooperation with the Indonesian defence forces over a period of time, in training people from the Indonesian defence forces. Submissions have been put to this committee that Defence should supply, in effect, the name, rank and serial number of those who have participated in Australian training, such that these organisations can trace these people once they get back to their own nation. The second thing is that, I can only say, oblique allegations have been made that Australia has trained either individuals or elements of the Indonesian defence force who have used the skills they have obtained in Australia in a negative sense against either the Indonesian people themselves or, more pointedly, against the East Timorese.

Given those allegations, can you outline for this committee what has been the role of the Australian defence training that has been given to Indonesian forces and does it vary significantly from our defence training that happens with other defence forces throughout the region including the United States, and can you tell us if you have any evidence of the abuse of training provided by Australian forces and if so what actions have you taken to redress any such breaches of trust that may have existed government to government or, in this case, defence force to defence force? It is a fairly broad question, but I will come back to it in bits and pieces if need be.

Mr Scrafton—The broad nature of the training that we have undertaken with the Indonesian forces has been the same sorts of things as we have undertaken with all of the regional countries around the area. In terms of the specifics of this question, things like our maritime surveillance exercises and navy to navy exercises are somewhat irrelevant to this point. They are just normal military exercises in terms of basic skills training, doctrine development and those sorts of issues.

In terms of the Indonesian army and specifically the most contentious element, Kopassus, the training has been very specific. The intention of the training with Kopassus and the Indonesian army has been in two major areas—primarily about basic military skills training. It is nothing to do with insurgency training or managing internal security issues, but primarily in the areas of basic infantry training and infantry skills.

CHAIR—Can you describe for the record what you mean by basic military skills and basic infantry skills? Some people would have no idea what that might mean.

Air Cdre Clarke—The sorts of skills that we are talking about are basic cleanliness, health, safety, organisation in the sense of discipline and responsibilities of the individual soldiers in the command chain—that sort of basic building block which makes the difference between the average person perhaps out in a hostile environment and a professional soldier. Those are the sorts of skills that we are talking about.

Mr Scrafton—It includes communication skills and that sorts of things that small units use in terms of operating—normal discipline and tactical sorts of activities related directly to specific military type tasks.

CHAIR—Can I interrupt you there? Are these skills, when they are imparted by our training officers, done in conformity with a code of ethics or a code of operation?

Mr Scrafton—Unlike the American system, we train them with the ADF as against the ADF standards against what we intend to impart to our own officers. So yes, a component of a number of these training activities has been human rights training—the same sort of human rights training that we provide to our own troops. As Kerry has indicated, one of the more critical elements in that is questions of responsibility in command, discipline in command and those sorts of issues. The same sorts of standards we would apply to our own troops are the sorts of standards we are trying to impart to the Indonesians and to other regional countries.

Air Cdre Clarke—An example is that the Australian Defence Force has quite rigid criteria for the use of lethal force or of force. We have provided that information to the Indonesians and have seen them using those sorts of structures. As Michael said earlier, that does not mean that it is widespread across the entire TNI. But certainly for the elements where Australia has had direct contact, we find those groups now using the same sorts of constructs—orders for opening fire, for example—that we in Australia use.

Mr Scrafton—We saw an example of this in East Timor. Some time ago we had some involvement with the Indonesians in developing a handbook with simple rules of engagement guidelines that could be handed out to troops. We became aware of a very similar document, almost a replica, being handed out to troops on the West Timor side of the border.

Air Cdre Clarke—We can provide the advice and the expertise—that is what the intent is. It is the intent to make the organisation more responsible—in the command sense and of course in the ultimate sense—to the civil authority. That is the way the Australian mechanism runs and it is exactly what we try to impart in our training to any of the regional nations or any of the nations with which we are involved.

Mr Scrafton—To continue with your question, the difference with the US is dramatic. In fact to a large extent in lots of areas we learn off, rather than teach, the US. The US training is much more, in our context, a benchmarking exercise for our forces against the world's most capable force, so there is a significant qualitative difference in the way in which we exercise with the US.

In terms of the way in which we exercise with the rest of the region, however, these are very similar sorts of activities. One of the common threads through a lot of this training—and the way in which we got involved with Kopassus forces—concerns Australian citizens in regional countries where incidents blow up that might require counterterrorist or counterhijack types of capabilities. One of our priorities is having some confidence that the countries have some capacity to deal with the incidents or that there is sufficient similarity between the way in which we and they would approach the problem that we could work together on a particular incident.

In terms of Kopassus, there are only two areas in which we have actually conducted training with them. One is directly in this counterterrorist/counterhijack area—we are talking about very specific skills here—and the other is in basic infantry skills where we make no distinction between the sort of training we did with Kopassus and with the rest of TNI.

CHAIR—Where would most of this training have been focused, at the officer level or at the ordinary ranks?

Mr Scrafton—Again, it is a broad spectrum. Most of the sorts of training we are talking about for military skills would have been at junior officer ranks. As for the exercises that took place, we conducted them both in Australia and in Indonesia up until the suspension of the activities.

Air Cdre Clarke—One of the things that we tried to do was to train the trainers—obviously you get much better value out of that. So the senior NCOs, the people who are directly involved in training their own troops, are the sorts of people that we try to target our work at.

Mr Scrafton—I refer to the next part of your question about any evidence of abuse of training. We have no evidence of that at all. It almost begs the question of whether or not in any sense you could abuse the sort of training we have been giving. Our judgment would be it is very specific.

One of the things we are very concerned about, for example, in East Timor was that, if our period of staying there became very long, the ADF might be reduced to doing policing type activities or internal security type activities. We have no capacity for that. There is no training capacity in the ADF for policing type functions or for internal security type functions. So we are just simply not in a capacity to pass those sorts of skills across to people.

As to whether in East Timor there was any collusion by us with Indonesian troops: no. We can categorically say that the ADF has not been involved in any sort of operations with TNI or any parts of the Indonesian military. Exceptions would be things like AUSINDO JAYA, where we did the humanitarian relief activity last year when the drought hit the eastern archipelago. So the answer to the rest of your question is that we have taken no actions on that basis.

CHAIR—So you say there is no evidence of abuse. What actions have you taken to track if those who may well have been involved in high level training in Australia have been involved in areas where there have been severe abuses?

Mr Scrafton—We have made no effort to track people in that sense. I might add that it is probably well beyond our capacity to do that. Except for very junior officers who may now be in very senior positions, who is posted where in the Indonesian military structure is something that is not easily accessible to us. That aside, when INTERFET went into Dili, some of the INTERFET deploying forces recognised around the airport people whom they had trained with in Australia. It would be very difficult to track the dispersement of personnel throughout the region.

CHAIR—The other issue that was raised before the committee was a call by some of the witnesses for the names of those that are trained by Australia at our defence force facilities. What is your response to that?

Mr Scrafton—We have consistently said that would put us in a position which would sufficiently damage our capability to conduct relations with not only the Indonesians but regional countries more generally. The invitation to witch-hunts for people is something that would simply start to make our pursuit of our security interests untenable.

CHAIR—The other issue I want to pursue before I get into a range of questions is defence aid. People have put submissions to us that all defence aid with Indonesia should be suspended. Is that the current situation?

Mr Scrafton—The current situation is that the minister announced earlier this year—I think it was in May—that we have suspended all military skills training and all exercising with Indonesia. However, we are still conducting staff college level exchanges, strategic dialogues—although none of those have taken place—and educational activities but all are related to non-skills training. What this means is that we have a number of scholarships where middle ranking officers are put on management courses at the defence academy or at universities—those sorts of things are taking place. Our exchangees are still in the staff academies in Indonesia, air force staff college and navy staff college. The Indonesians have people here at the Australian Defence College doing the senior officers course. It is military skills training and exercising which has been suspended.

Air Cdre Clarke—There is one exercise which still remains. That is the joint air surveillance activity between the TNI air force and the Australian Air Force for the Timor Gap and the Timor Sea. That is an irregular activity. It occurs for about a week every six months or so.

CHAIR—So that activity has not been suspended?

Air Cdre Clarke—It has not, but it is not currently running by virtue of the cycle of activity.

Mr Scrafton—It is not effectively a military skills activity in the sense of combat skills, which is what has been completely stopped. It is about monitoring movement across the Timor Sea, not only around the oilfields and gas fields but illegal people movements and those sorts of activities.

CHAIR—The other issue that falls under the umbrella of defence aid, as I understand it, is the assistance we gave in Irian Jaya. When people have called for the suspension of defence aid, I have been one to point out that the humanitarian elements of defence aid should be persisted with because they are helping those people who are invariably most vulnerable in the Indonesian archipelago. Are there any of those defence aid projects currently around?

Mr Scrafton—There are no operations currently active. But they have not been specifically embargoed, so if there were a request we would seriously look at it.

CHAIR—Moving on to another issue, are you able to assist me on what is the status of the defence cooperation treaty between us and Indonesia?

Mr Scrafton—The AMS has been abrogated from the Indonesian side. The government has decided not to respond to that one way or another, so effectively that is no longer an arrangement between us and Indonesia. However, the framework of activities around which the defence cooperation took place were not dependent on that agreement; it was not the head of authority for it. At this stage there is still in theory an agreement with us in existence, of which you have asked for a copy.

CHAIR—Yes, could we have a copy of it?

Mr Scrafton—I am happy to provide that to you today. It basically sets out the framework for the sorts of activities, the sort of direction and the strategic objectives mutually being pursued. That is supported by a range of committees which look at the overall conduct of those activities, starting at the head with a ministerial level committee which our minister chairs and supported by a series of subsequent committees, one of which is chaired by the vice chief and one at international policy head level. There are a series of working groups on areas like training and education and science and technology—the range of issues of that militaries engage in.

CHAIR—Do we still have defence attaches in Indonesia?

Mr Scrafton—Yes, we have a brigadier who has just been accredited. There are Air Force, Navy and Army assistant attaches at the colonel equivalent level, and a subsequent staff underneath. It is quite a significant presence for Australia for defence overseas.

CHAIR—There have been reports that Kopassus are operating within East Timor. As a matter of fact, it has been put to me that some people under the guise of militia were found to have Kopassus identification. What is your response?

Mr Scrafton—I would be happy to talk to you privately about that rather than publicly.

CHAIR—We will go off the record later on. Getting now to the make-up of the Interfet operation—and you might need to take this on notice—can you give us exactly the ADF resources that are committed to the Interfet at the moment? What are the numbers of troops, and what are the major pieces of equipment that we have involved?

Air Cdre Clarke—I can give it to you in the broad sense. In essence, the primary land force are a brigade of three battalion groups. That includes their logistics, communications and other supporting infrastructure—for example, combat engineer regiments and aviation support. That is the primary land force. In naval terms, there are two major fleet units and a number of smaller craft, primarily used for supporting the force by sea from Dili around the coast of East Timor or for moving equipment and stores from Darwin to Dili by sea. I might add that we have quite a strong proportion of that naval force out of our coalition partners. For example, the Singaporeans are providing landing ships and the Canadians are providing an oiler for replenishment at sea—that sort of construct.

Similarly, we have a number of C130s involved in moving stores by air from Darwin, primarily to Dili, Bacau and shortly to Suai. We have two airfield support organisations, one at Bacau and one at Dili, running the airfields, and there are a small group of defence guards around the Dili location. That is the structure of the ADF force. So you see it balanced primarily in land. It is something in the order of 4,800 land personnel, and there are smaller groups which make up the 5,300 that I pointed out to you earlier.

CHAIR—We have heard there are F111s. What is their role?

Air Cdre Clarke—That is correct. We have flown two reconnaissance sorties using F111s—one last Friday and one last Sunday. The prime aim of that platform is to determine the breadth of infrastructure damage and to improve our understanding of the topography and the maps. So we are trying to do some ground truthing of map locations and map support as well as coming to terms with the border infrastructure damage. That aircraft is flying over East Timor proper only and is not currently moving down to the enclave of Oecussi.

Mr Scrafton—There is some lack of clarity about where the border exists and what the conditions of the border are even from the Indonesian side, so it is an important issue.

CHAIR—What steps are being taken to clarify the border? One of the things that has been said in evidence before this committee is that the securing of the border was paramount to the integrity of not only East Timor but Oecussi as well. It seemed that it depended on who pulled out what map as to where the border was. How is that being resolved? Is that being resolved through the UN with the Indonesians? Or is there a no-go zone on the border?

Mr Scrafton—There are two aspects to this. One is the question of border security. The Commander of INTERFET is working on the issue of a buffer zone because of the lack of certainty about where the border actually is. One of the difficulties we have had with that has been putting in place a management regime. Former KODAM IX commander, Major General Damiri, was less than forthcoming in wanting to talk to Cosgrove about how to manage it. His replacement, Major General Syahnakri, has already indicated that he will make it a priority to talk to Cosgrove, so some mechanisms will be put into place, agreed to by TNI and Australia, about border security.

The question of the actual location of the border is something for the UN to negotiate with the Indonesian government. The new mandate for the UNTAET effectively makes them the legal authority for those sorts of issues in East Timor. I understand one of the priorities for the new special representative, de Mello, is to take up with the Indonesians a resolution of the actual location of the border.

CHAIR—Have there been any problems at the border as a result of its ill-defined nature, particularly in the movement of refugees back across the border? Do we know whether there is any evidence of incursions across the border of the militia? At one stage there were threats by them to come across the border and wreak havoc.

Air Cdre Clarke—Firstly, since 10 October—when we had an incident between an INTERFET patrol and TNI POLRI patrol in Montaan on the northern coast—there have been

no incidents across the border. That incident was jointly investigated by TNI and by INTERFET. A joint report has recently been submitted to the Secretary-General of the United Nations on that. Out of that came a number of recommendations, which INTERFET and TNI are working on cooperatively. It is one of those recommendations that Michael talked about in terms of the meeting between General Cosgrove and General Damiri being a necessary step.

In spite of that, recently we have had very good cooperation with TNI forces on the border, both in Oecussi and in the crossing points of the East Timor-West Timor proper border. Let me go back a step. Do not hold me to the exact number, but I think there are 14 border crossing points along the East Timor-West Timor border. They are now being adequately and cooperatively controlled between TNI and INTERFET. So the movement of IDPs across that border is unimpeded in that sense; the processes are in place. How they get to the border on the West Timor side, of course, is a different issue. In the Oecussi environment there is only one major border crossing point, and that is also controlled in the way I have just described—cooperatively between the TNI commander and the local INTERFET commander.

Senator BROWNHILL—What is the situation with people coming and going by sea?

Air Cdre Clarke—There has been very little activity in the sense of the maritime border, and there is no direct patrolling of the lines. The sort of work that was referred to earlier between the United Nations and Indonesia, which has to take place to define the maritime boundaries, is complex and will take time. The movement of refugees by sea is already agreed, and we are seeing a ship a day arriving in Dili from either Kupang or other locations in West Timor. Today, we have taken one of our own ships, the catamaran *Jervis Bay*, and moved a number of those people from Dili around to the southern port of Suai, so that they can be put back where they came from in other words. So we are facilitating within the force resources for the sorts of humanitarian movements that you are talking about.

CHAIR—On the issue of communications between the TNI and INTERFET, I presume, from what you are saying, that there are regular communications and that that they could be described as being professional and harmonious. Is that a reasonable way in which to characterise the relations, because there was a certain animosity displayed by the TNI at their necessity to withdraw from East Timor?

Mr Scrafton—I think ‘harmonious’ is probably too strong a description. But they have certainly been professional and effective, particularly at the operational and tactical level where people have had to get on with each other and work together; they have worked quite well. As I indicated, there had been some greater reluctance because of personalities at the top level and, quite clearly, Major-General Damiri was reluctant to meet with Cosgrove over the particular issues of the border incident. But, that was much more an exception. When General Syahnakri was actually the representative of the TNI in East Timor, he and General Cosgrove had very good communications and the cooperation was professional.

Air Cdre Clarke—During that time, as a result of negotiation in New York very early on, there was a joint consultative group established between TNI and INTERFET on the ground so that as soon as INTERFET was on the ground, as Michael has said, that group

came into play and quickly diffused any sorts of clashes of activity that we might have expected between TNI and INTERFET in East Timor. The relationship with TNI outside of East Timor is primarily driven through Jakarta and/or Bali, with Jakarta being our prime focus, hence our need to keep our defence attaches in location to facilitate that data flow, which covers things as simple as ship movements to the western enclave and aircraft movements across that environment—the normal sorts of things that we need to make sure that TNI are aware of so that there are not any mistakes or confusions. That sort of activity has been ongoing.

Mr Scrafton—When I was in Dili about three weeks ago, General Cosgrove and I drove through the TNI compound and all we encountered were waves and smiles as we moved through. So, between the TNI troops and the Australian troops on the ground, there is not much tension. The tension, if there is any, is largely politically driven, I think, and comes at the top ranks.

CHAIR—Can I just go to the issue that you have now raised. In respect of our defence attaches, therefore, there is a professional—I will not use the word harmonious—relationship operating between their defence people and our defence attaches in Jakarta?

Air Cdre Clarke—Yes.

Mr Scrafton—As you are probably aware, there has just been what they call a ‘mutation’ at the top of TNI, where a large number of the senior positions have all been reshuffled. Over the past week or so, Brigadier Millen, who is the HADS in Jakarta, has had visits on a number of the new senior appointments. The issues surrounding the relationship have been discussed quite openly and frankly with him. Certainly the relationship is under review on both sides, and quite understandably, but the way in which that review and the discussions are taking place is still very much at a frank and professional level.

Senator QUIRKE—Can I just ask a question. When can you tell us what role the defence organisation will have in the development of and assistance to an East Timor defence force in the future?

Mr Scrafton—That is very much to be resolved. This is an issue that Gusmao raised with our minister in Dili when he was up there. It is very much a question of what sort of defence force, whether it is a paramilitary force, a genuine defence force or police and border patrols, and is really a question for the United Nations administration and for the East Timorese to sort out between themselves. We are certainly watching those developments and, clearly, it is in our interests that East Timor as an independent country has an appropriate capability to secure itself. When whatever it is falls out of the current negotiations, we will look at ways in which we can assist them, as we do with the rest of the regional nations.

Senator QUIRKE—What arrangements are being put in place for long-term security, particularly for the western border of East Timor?

Mr Scrafton—There is nothing for the long-term for the moment. There are interim arrangements, as described by Kerry, in terms of managing movements across the border.

But, again, this is still very much a question for the Indonesian government and the East Timorese to sort out.

CHAIR—The only other question that I want to pursue before we go into in camera is the issue of equipment supplies for our defence forces. It was raised early on in the piece that there were not enough flak jackets, helmets and so on. There is also an issue of the supply of munitions, which has arisen at estimates hearings. I know that we have been in short supply of munitions. I know that undertakings have been given at estimates that that deficiency is being overcome. Can you address those issues for me in view of the fact that I still have some people saying to me that there are not sufficient supplies of certain munitions that would be desirable, seeing that we now have changed circumstances where we have a force in the field as opposed to a force on stand-by?

Air Cdre Clarke—In terms of munitions themselves, there is nothing that commander INTERFET has asked for that we have not been able to either deliver or will shortly deliver. We are in a very fortunate position that we have not had to use a lot of munitions—and I use this in a positive sense. It has been an environment where there has not been a lot of shooting. The militia have, to some extent, melted away in the face of INTERFET, and we want to keep it like that. That does not mean that we are not conscious of what commander INTERFET needs and what his stockholding requirements are. We have met all of those in terms of munitions, and in a few very exceptional circumstances some are to be arriving.

The flak jackets that you talked about were more an issue of the quality of the jacket—there are a couple of sorts, I understand—and we wanted the high velocity sort in anticipation that we might be fighting against high velocity military style weapons. That has not been the case, but we now have secured those jackets. We have given them to the personnel in the field, and they now have the high velocity jackets and helmets to meet that requirement. It is our intention, in fact it is my entire day-to-day focus, to ensure that commander INTERFET has exactly what he needs to do the job.

CHAIR—Before we go into in camera, I want to record my appreciation for the work that is being done by our defence forces there.

Evidence was then taken in camera, but later resumed in public—

MALEY, Dr William Lee (Private Capacity)

CHAIR—Welcome. In what capacity do you appear before the committee?

Dr Maley—I am appearing in my capacity as an academic political scientist.

CHAIR—Thank you. The committee prefers all evidence to be given in public but, should you at any stage wish to give any part of your evidence in private, you may ask to do so and the committee will consider your request. The committee has before it your submission. Are there any alterations or additions you would like to make to the submission at this stage?

Dr Maley—No.

CHAIR—I now invite you to make an opening statement, and then we will proceed to questions. I apologise for our late start, but we will finish in time for you to get to your appointment.

Dr Maley—Thank you. I have provided the committee with a rather detailed written submission and I do not intend to canvass all the specific points which that submission covers. I would like to start by making some comments about my assessment of the different policy settings at different stages of the East Timor operation. I then want to make some observations about what might explain some of the mistakes along the way and conclude with some suggestions about how we might proceed.

Firstly, it seems to me important to concede and recognise that the Minister for Foreign Affairs was right to raise the issue of East Timor and to recognise that, until the bacillus in the relationship—which had been injected by our acceptance of Indonesia's takeover in 1975—had been removed, it would be impossible to move to a stable bilateral relationship with Indonesia. So I am not at all critical of the government for moving towards a new approach to the East Timor issue and nor am I in any sense critical of the way in which INTERFET has conducted itself since the Indonesian government agreed on 12 September to the deployment of the force. In fact, I think the conduct of General Cosgrove and his troops, not only from Australia but from other states, has brought great credit on Australia and the participating states and sent a powerful and important signal about the willingness of the international community to defend the outcome of the popular consultation.

Where I am critical of the policy relates to the failure of Australia and the international community to push with sufficient force for the deployment of a neutral security force before the conduct of the consultation. I think there was a gross underestimation of the importance of a neutral security force. Policy makers both in the UN Secretariat and Australia failed to learn the lesson of Angola in 1992, which was that, if you have a deeply divided society and you lack a neutral security force in a transition process, you run the risk of slaughter on a grand scale. I think we also underestimated our ability as a nation to promote the option of a neutral security force. One frequently hears the statement that the Indonesians would never have agreed to that and that it would therefore have been pointless to promote the option.

I think this view is defective on two grounds. Firstly, while our influence in Jakarta was fairly limited as a consequence of our policy settings over a quarter of century, we actually had a lot of leverage and power in terms of the Indonesians because of the economic situation and vulnerability of the Indonesian economy to various forms of pressure. I have no doubt that the reason Indonesia agreed on 12 September to the deployment of INTERFET was that the government had been warned that the rupiah was likely to melt down in the foreign exchanges the following day because of the postponement of the visit by the International Monetary Fund delegation. I think this is a good illustration of the type of leverage which could have been brought to bear. Secondly, I think there was a gross miscalculation of the extent to which one could rely on TNI and POLRI to provide security for the conduct of the consultation. Frankly, I think this was as naive as it would have been to believe that the Gestapo could provide neutral security for an autonomy vote in occupied Poland.

I would just like to make a couple of comments on why some of these settings were so wrong. I think it is not to do with defective individuals—I would not go so far as to endorse Mr Plunkett's description of some of our policy makers as 'drongos'—so much as to do with organisational culture. The late Bernard Brodie's study of organisational culture in the Pentagon in the 1960s during the Vietnam period is instructive here because it shows the way in which a particular view of the world, a particular *Weltanschauung*, can take root within organisations and those people within an organisation who are not prepared to accept that way of working are slowly marginalised. I think elements of this were apparent, on the one hand, in a disposition to engage in best case scenario reasoning and, on the other hand—at the worst—to engage in wishful thinking of the dreamiest possible variety, allied with a degree of complacency about what was likely to happen.

I will give an example. I was at a meeting at the foreign affairs department on 14 July, which was actually organised by another department, but DFAT officers were there. Timor came up for discussion and I put my hand up and said that I had very bad feelings about how things were likely to develop and that we should be planning for the worst conceivable outcome and doing so at a high level and my sense was that we weren't. During the coffee break, the chair of the meeting, who was an official from the other department, came up to me and said, 'You are wrong. The necessary planning is being done and it is irresponsible to raise the issue.' You might guess the identity of the department—actually, it was not DFAT—if I mention that this is on a par with the comment that was reportedly made by an officer from the immigration minister's office on 9 September—four days after slaughter had started on a grand scale—that, if East Timorese wished to come to Australia, they should apply for visas in Jakarta. I think that falls into the 'this one I frame' kind of category!

CHAIR—Do you have that quote?

Dr Maley—I can provide it for you. It is on the ABC web site. Mr Warren Snowdon contacted the immigration minister's office to suggest that safe havens should be established for East Timorese in the Darwin area and that was the response he reportedly received.

I think this was complicated by a metaphor which became dominant within policy making circles—namely, that of a window of opportunity which could close at any time. This is a very dangerous form of thinking. It underplays the flexibility of international

politics in the current circumstance. I do not think that anyone in DFAT or the other agencies would have anticipated that President Abdurrahman Wahid would be talking about a referendum in Aceh at the moment and yet, possibly, that now seems to be on the cards. Windows of opportunity often provide real risks. If one thinks that one must rush ahead before a window of opportunity closes, very often the result is that one does not move with the degree of planning and caution that might be required.

Because of the success of the INTERFET operation, there is a danger that we will not learn the lessons that needed to be learned from what happened in the months before the consultation. There has been quite an effort in what you might call trying to paint a bullseye around the spot where the arrow happened to land. If we fail to learn from the poor policy making that preceded the consultation, we run the risk of repeating that kind of pattern of mistakes in the future—not, let us hope, in another East Timor situation that is going to confront us in those particular details at any time soon but in other areas of multilateral activity in which Australia may be requested to become involved, such as support for transition processes in other parts of the world, where the defence department and other agencies have a lot of skills to offer.

To conclude this opening statement, I think at the end of the day we have been lucky, but a lot of East Timorese have not been so lucky. I have at the moment rather ominous feelings about the exact location of the 80,000 East Timorese for whom it seems difficult to account at present. Given the experience of the tribunals in the former Yugoslavia and Rwanda, anybody who wanted to engage in organised slaughter would have had to have rocks in their head to do it in East Timor. There are other territories much less accessible to investigators where slaughter on quite a scale could have happened. It does seem to me somewhat optimistic to believe that groups that could engage in property damage on the scale which has recently been witnessed by this country would be squeamish about causing personal injury as well. That tends not to be the pattern of such groups. I hope that at the end of the day we will not come to the conclusion that everything has worked out for the best in the wash-up, because there are some people for whom there is no future. Thank you.

Senator BROWNHILL—You make the comment here:

... it ill behoves a leader whose defective and blinkered policy settings have helped contribute to a genocide to accuse expert commentators of being 'demented'.

I think that is a comment about the Prime Minister, but obviously it must apply to all in the last 24 years in our foreign affairs policy. That is what you are saying.

Dr Maley—Yes.

Senator BROWNHILL—The question I am asking, though, is about genocide. I have asked the question of everyone who has appeared here, and most people say it has not been a genocide. But you are saying it is a genocide.

Dr Maley—It depends on definitional questions. If you have slaughter on a vast scale which is aborted at a certain point, I still think one can use the word 'genocide' because of the intent which underpinned the initial pattern of killings. Some political scientists prefer

the expression ‘politicide’ to genocide on the basis that where people are being killed—not on the basis of membership of a particular ascriptive category but on the basis of their perceived political opinions—it may be better to talk about politicide rather than genocide. I see no particular reason to believe that, had INTERFET not been deployed following the exercise of great pressure on the Indonesians, killing on a grand scale would not have continued for a very long period of time.

Senator BROWNHILL—How many people do you think have been killed? One of the earlier witnesses today said that it may be a couple of hundred thousand over 24 years.

Dr Maley—I think a couple of hundred thousand over 24 years is quite a plausible figure, particularly if you include the most recent killings within that total. That is a very large scale of killing.

Senator BROWNHILL—That is 25 per cent, I guess.

Dr Maley—Yes.

Senator BROWNHILL—But how many people do you think were killed leading up to the referendum and after the referendum? They have found 100 graves or something like that, but nobody has been able to say to me in the last week or two in the hearings that they were taken out on a ship, dumped at sea or relocated to West Timor. So they might not have been slaughtered.

Dr Maley—I think that the jury in a sense is out. If one is looking for bodies as the physical evidence of killing, it is too early to start making an assessment.

Senator BROWNHILL—People could have been burnt or disintegrated in some way. There is no doubt about that. You could not actually do a body count.

Dr Maley—No.

Senator BROWNHILL—Still, there would have to be evidence of that from people coming forward and saying, ‘There were 50 people taken away last night. They were taken to that compound, and they never came out again,’ or whatever. That has not happened yet.

Dr Maley—When people go missing on a large scale, *prima facie* I think it is wise to assume the worst rather than the best. I am prepared to wait to be pleasantly surprised, but I do not think I will be, somehow. If one looks, for example, at the experience with the Khmer Rouge from 1975 to late 1978 in Cambodia, during the period of Khmer Rouge rule a great deal of the material that came out that pointed to large scale slaughter was rather vague and inchoate. It was on this basis that figures like Noam Chomsky, for example, argued that it was really a matter of Western propaganda that killing on a large scale had taken place. Subsequently, in the 1980s, a lot of mass graves were excavated. It is in the first instance a danger signal if one has property damage on a vast scale and large numbers of people for whom it proves difficult to account. It is on that basis that one needs to be extremely apprehensive about what has happened in East Timor.

CHAIR—You spoke about our being a significant force in foreign affairs. How significant are we in either the world spectrum or even the Asian region when we cannot get into ASEAN? Is our vision outstripping our real position?

Dr Maley—No, I do not think it is. In a way, I think for too long we have underestimated the extent to which we can be a force for good in the politics of the region. It is partly because of an excessive caution within our diplomatic style. There is a reluctance to use the real weight that we have both as an economic power vastly more significant than a number of the regional states with whom we interact and as a power which, whilst capable of deploying only a rather small military force for an extended period, can nonetheless deploy a military force of very considerable quality and capability.

It does seem to me that for too long we have paid too much attention to the issue of not allowing our interlocutors to lose face. That has created a situation in which we too readily treat the opening gambit of a party bargaining with us in a negotiation as if it were the bottom line. One sees speculation in the press that during the Bali summit President Habibie threw a tantrum and suggested that he would never agree to international neutral forces being deployed in East Timor. At that point, we moved back to what was a very defective second option—namely, to deploy civilian police. I am not critical at all of what the Australian Federal Police have done. I think they were amazing in the circumstances in which they were deposited, but they should never have been deposited in that kind of context. It was not an appropriate one for civilian police operations. It seems to me that there is a real danger that in that bargaining context we may have mistaken the opening position of the Indonesian government for their bottom line. Any force, government or bargaining partner, which is capable of getting the other side to accept their opening gambit as the bottom line is in a very strong position.

CHAIR—Basically, what you are saying is that we are not good poker players.

Dr Maley—Yes.

CHAIR—We see the ace drawn and think that they have a full four aces.

Dr Maley—Yes, whereas it seemed to me that, earlier this year, Indonesia probably needed Australia more than Australia needed Indonesia. Australia had been a generous contributor to economic assistance to Indonesia following the financial crisis, and the Indonesian economy, particularly its floating currency, made Indonesian policy circles rather vulnerable to external pressure. Yet I see no evidence that any serious attempt was made to orchestrate the kind of pressure that would have been needed to get the policy settings right in order to secure the situation on the ground for the East Timorese in the run-up to the consultation.

CHAIR—I would like to move on. You said that we could be a force for good and a number of other things. How do we become a force in that foreign affairs arena within the South-East Asian environment and with our near neighbours on a bilateral basis? In terms of the United States, it is easy to see that the size of their economy, their role in the UN and the sheer physical size of the nation makes it a force. How do we become a force, given that we are viewed differently by the ASEAN nations? I am looking at it from their perspective

now, not from our perspective. They do not necessarily see us as being part of South-East Asia. How do we become that force? Is it going and knocking on doors? Do we need to create forums in which we can operate? Is part of it our access through the ASEAN door?

Dr Maley—I think what we do need to do is widen our sense of who are appropriate partners within Asia. Many Asian countries are at the moment going through a process of democratisation or a recrudescence of civil society which to some extent has been supported by the economic crisis of the last two years. As far as Indonesia is concerned, there are a lot of young, very open-minded Indonesians, highly educated, who were appalled by what happened in East Timor and whose aspiration for the future of their country is to see it develop as a democratic and much more liberal state than it was during the Suharto period. We should be trying to engage those sorts of groups in a very serious kind of fashion.

CHAIR—When you say we, who is we?

Dr Maley—I think the Australian government, Australian NGOs, the Australian parliament—it does not have to be a one track kind of approach. The more links that we can build with the liberal and democratic forces in Indonesia and in other countries of the region, the better placed we are to cope with troubles in the future, because those partnerships which are based on shared values are going to be much more robust than alliances which are based on a sense of transient interest.

CHAIR—It has been put to us that we spend too much time dealing with the top echelons rather than looking for the other players who might be in the field as well.

Dr Maley—I think that is absolutely right. But I think we also need to reflect on whether we can keep going with a foreign policy which is based on avowed pragmatism. I have a sense that some foreign policy circles have had a bit of a ‘road to Damascus’ experience as a consequence of the recent events in East Timor and that the time is really ripe for reconsideration of whether the kind of pragmatism that was preached in the mid-1970s as far as Indonesia was concerned is any more viable.

In June this year I was at a UN meeting in Norway, sitting next to a senior Norwegian official. Norway is a country with four million people. I said to him, ‘How is it that a country with a population as small as yours manages to pack a lot of weight in the world?’ He said, ‘It is because we have a foreign policy which is based on values rather than narrow interests.’ I think that is something that we really need to contemplate, that as globalisation processes go ahead a distinction between a pragmatic policy and a value based policy becomes harder and harder to maintain, because the processes of transition which are going on in the countries of the region are increasingly permitting the flourishing of groups that are themselves concerned with defining an appropriate value base for their societies. Very often that is very close to what would be seen as an idealistic set of policy settings in Australia. I think there is real potential for us to engage with those kinds of groups in a fruitful long-term relationship. But they will not trust us if they think we are going in simply as a short-term expedient as part of a pragmatic foreign policy. If they think that for pragmatic reasons we are going to dump them at some point in the future, they are not going to regard us as credible partners.

CHAIR—Having read your submission, I think I can characterise it as being fairly critical of the role of DFAT and the part that DFAT has played over a long period of time.

Dr Maley—Yes.

CHAIR—Are you saying that the politicians, the political parties, the political process, have left too much in the hands of the bureaucracy, or are you saying that the parliamentary processes should have scrutinised more the operations of the Department of Foreign Affairs and Trade? What is the message you are giving us?

Dr Maley—Much more scrutiny of the foreign policy process by parliament would be helpful.

CHAIR—Are you saying that the government should be more active rather than leave it to the professional people within the department of foreign affairs and the like? I do not want to just single them out, because I think it goes broader than that.

Dr Maley—Yes, there are a range of different actors. I would not be at all worried about realists in the foreign affairs department if I thought they were realistic. The problem I have is that a lot of the policy settings that are derived from the so-called foreign policy experts here have been based on wishful thinking, on presumptions which blind Freddy would not accept uncritically. Cultural factors within organisations can generate that type of misperception over time. We do have a great opportunity now to reflect on what might help in the restructuring of the foreign policy process. A bit more attention to public opinion would help.

If one looks at public opinion on the Timor issue and compares it with elite opinion, particularly organised bureaucratic opinion, broadly one can say that the general public got it right. The general public could see that Suharto was a dictator and that pretty nasty things were happening in East Timor, including to people who had helped Australian service personnel during the Second World War, and they did not like it. I got sick to death of hearing people from foreign policy circles saying that the public were ignorant and that one really needed to insulate foreign policy, that it was too important to be buffeted around by attitudes of the general public. I have rather a lot of respect for public opinion on these sorts of issues.

CHAIR—Could I just interpose, because I know time is running out for you and it is certainly running out for me. Does DFAT listen enough to the NGOs and other people who have experience on the ground, or does it tend to dismiss those views?

Dr Maley—There are a lot of formal avenues of consultation—human rights consultations and regular meetings with NGOs. There is a Russian expression ‘pokazukha’, which means ‘it’s all for show’, and sometimes I have the feeling that the people who attend those meetings are not those who are ultimately going to be making policy, that the undoubted courtesy that one encounters at such meetings is not indicative of a broader respect for the opinions that are being expressed by people there.

This does tie in with one other cultural problem, which is that there is a disposition in bureaucratic agencies that have access to diplomatic cables to think that people who do not have the cables cannot possibly know what is going on in remote parts of the world. I am a specialist on Afghanistan, and I go to Afghanistan much more frequently than any Australian officials do. There are a whole range of open source channels now by which people in NGOs and people outside government can get almost real-time information about on the ground situations in war torn societies which I suspect is at least as good as, if not perhaps better than, that which bureaucracies have. My sense is that DFAT and a number of other agencies are so busy coping with the cables coming in that they are not accessing this sort of information.

CHAIR—Are you saying that we suffer from information overload?

Dr Maley—We do suffer from information overload, but we also suffer from a lack of—

CHAIR—Do we suffer from a lack of ability to discreetly work through that information and sort out what is good and what is bad, or what is useful?

Dr Maley—Yes. My sense in the Timor case is that there was plenty of information coming into government suggesting that a disaster was quite likely to occur. In terms of detail about the involvement of TNI with the militias, there were specific statements by militia leaders about exactly what they intended to do if there were a vote for independence rather than autonomy. At some point, this was screened out. The failure was not so much a failure of intelligence gathering in terms of raw data and information but of coming to terms with the implications of the information that was coming in. My suspicion is that at a certain stage people just put their heads down, headed for the door of the maze and hoped that momentum would carry them through. Sometimes it does, but very rarely.

CHAIR—I have a final question. Where do you think we need to go in developing our policy on our relations with Indonesia, given the problems that are unfolding within Indonesia at this stage—like Aceh, Kalimantan, et cetera? What do we need to do?

Dr Maley—We need to do three things. Firstly, we need to improve expertise within DFAT. That may seem a strange thing to say, because the Indonesian-Australian relationship has always been projected as a core element, but the emphasis on generalists within the foreign policy bureaucracy rather than specialists means that sometimes one does not have quite the depth of appreciation of the complexities of an issue that one might like to have. That is not a criticism of the current ambassador, who I think has done a wonderful job, but it is a criticism of the degree of specialisation that has been permitted in the past for some of the people who are working in that area. That is the first thing that needs to be addressed.

The second issue which I think needs to be addressed in that respect is the pragmatic realisation that things have gone very badly in the relationship in the last few months and that we need to take advantage of the strength that we have shown through the INTERFET operation, not to lapse back into the old pattern of being a supplicant to the Indonesians. We do have the opportunity to develop a more equal relationship. As someone pointed out, Australian prime ministers have visited Indonesia on something like 15 occasions in the last 20 years. An Indonesian President has not visited Australia since 1975, and that creates an

impression of Australians running off to Jakarta when Jakarta wants it rather than a relationship of mature equality.

Thirdly, we also need to recognise that the Indonesian situation is a deeply deinstitutionalised one. There are optimistic scenarios, but there are also very pessimistic scenarios about what is likely to happen, starting with the break-up of Indonesia. I am worried about what is going on in Aceh at the moment; I think it could be a touchpaper for much wider developments. We need to start thinking about what our settings will be if Indonesia begins to break up in a big way. We should not just adopt a best-case reasoning scenario, nor should we think there is anything we can really do to stop it if it is going to happen.

If Indonesia breaks up, it will be for deep structural reasons in the political system and society which, by this stage, are far beyond the capacity of the Australian government to influence. We should be looking at how we might go about managing a crisis in such a way as best to protect Australian interests and minimise the scale of disruption and bloodshed which ordinary Indonesians might have to face.

Just as a footnote, we need to put an end to a situation in which the immigration department has a foreign policy of its own. If Indonesia begins to break up, we are going to witness large-scale population movements, and they should be recognised as a foreign policy and security issue that needs to be addressed in a centralised fashion. We need to get away from the situation in which different elements of bureaucracy are pursuing their own policy settings because, if that happens, we are at the same time sending out signals to actors in conflicts in the region that will be blurred, muddled and could potentially complicate our situation in a grave and serious fashion. So more coherence in the foreign policy making process is vital.

CHAIR—Thank you. We will stop there. We thank you for your evidence, and we are sorry that we took you a few minutes late, but that was unavoidable. We have appreciated the evidence that you have given to the committee today.

Proceedings suspended from 12.38 p.m. to 2.02 p.m.

[2.02 p.m.]

CAMPBELL, Mr William McFadyen, First Assistant Secretary, Office of International Law, Attorney-General's Department

JENNINGS, Mr Mark Brandon, Senior Adviser, Office of International Law, Attorney-General's Department

KJAR, Mr John Roland, Manager, Petroleum Exploration and Development Branch, Department of Industry, Science and Resources

PAYNE, Mr Stephen Gregory, General Manager, Petroleum Exploration and Development Branch, Department of Industry, Science and Resources

WELLS, Dr Patricia, Assistant Manager, Petroleum Exploration and Development Branch, Department of Industry, Science and Resources

FRENCH, Dr Greg Alan, Executive Officer, Legal Branch, Department of Foreign Affairs and Trade

POTTS, Mr Michael John, First Assistant Secretary, International Organisations and Legal Division, Department of Foreign Affairs and Trade

THWAITES, Mr Michael Jonathan, Director, Sea Law, Environmental Law and Antarctic Policy, Legal Branch, Department of Foreign Affairs and Trade

CHAIR—Welcome.

Senator BROWNHILL—Before the opening statements are made, can I place on record my apologies for holding you up. It was an inadvertent adventure of mine that kept me late.

CHAIR—I think we will turn the questioning around to you; that sounds interesting! The committee prefers all evidence to be given in public but, should you at any stage wish to give any part of your evidence in private, you may ask to do so and the committee will consider your request. You will not be required to comment on the reasons for certain policy decisions or the advice which you have tended in the formulation of policy or to express a personal opinion on matters of policy. The committee has before it submissions from your departments. Are there any alterations or additions you would like to make to the submissions?

Mr Payne—No.

Mr Potts—No.

CHAIR—For the purpose of obtaining an accurate record, would you remain behind at the end of proceedings so that the Hansard officer can check spelling and sources of

information provided this afternoon. I now invite you to make an opening statement and then we will proceed to questions.

Mr Campbell—The Attorney-General's Department welcomes the opportunity to appear before the committee on matters relating to the Timor Gap Treaty. The government believes that the continuity of the Timor Gap Treaty is important for all concerned, including Australia, the people of East Timor and the companies involved in the exploration and exploitation of the area covered by the treaty. Earlier this year, the committee requested a submission from our department dealing with the future of the Timor Gap Treaty. When the department lodged its written submission in April, the outcomes of the events in East Timor remained uncertain. Accordingly, the submission examined the future of the Timor Gap Treaty in circumstances ranging from autonomy for East Timor within Indonesia to independence.

It is now a matter of record that the East Timorese rejected autonomy and that they are now embarked on the path to independence. However, before independence, there will be an interim phase during which the UN transitional administration will have overall authority for the administration of East Timor. That transitional administration was only established on 25 October of this year by Security Council resolution 1272. Our written submission, in dealing with the future status of East Timor, did advert to the possibility of East Timor going through a period of transition under US auspices prior to becoming an independent state.

Security Council resolution 1272 and the related report of the Secretary-General on the situation in East Timor now provide the foundation for East Timor's transition to an independent state. Consequently, the UN and its transitional administration have an important role to play in ensuring the continuity of the Timor Gap Treaty. Our colleagues from the Department of Foreign Affairs and Trade will brief the committee on that role. Our written submission also identified the need to establish the views of the East Timor representatives on the treaty. That has been done and our colleagues from the Department of Foreign Affairs and Trade will also brief the committee on that process of consultation and the outcomes.

In the section dealing with an independent East Timor, our written submission examined the relevant principles of international law relating to state succession with respect to treaties—that is, the movement of a treaty obligation from one state to a successor state. But, given the novel situation created by the period of UN administration, those principles of succession which are outlined in our written submission are really not of immediate application.

There are two further points I would like to address. The first relates to the boundaries of the Zone of Cooperation established by the Timor Gap Treaty. Our submission notes that the zone was intended to be referable only to the coast of East Timor and the opposite coastline of Australia. Indeed, the very term 'Timor Gap' refers to the gap left in the 1972 seabed boundary agreement with Indonesia between what are known as points A16 and A17 to take account of the then Portuguese responsibility for East Timor. However, there is a question whether Indonesia has any remaining legal interest in the location of the boundaries of the zone following the movement of East Timor out of Indonesian sovereignty. In this respect, the focus would be on those points which I just mentioned—that is, points A16 and A17, identified in the 1972 seabed boundary agreement. These are at the eastern and western

extremities of the Timor Gap Zone of Cooperation. Could I ask whether the committee has a copy of a map of the Zone of Cooperation.

Senator BROWNHILL—That is what I was just looking at. It would make it a little bit easier.

CHAIR—Only what has been supplied as attachment D and attachment A in the Department of Industry, Science and Resources submission. Is that an adequate map for us to deal with if you are going to be referring to a map?

Senator BROWNHILL—Attachment A sets it out reasonably clearly, for my purposes.

CHAIR—Have you got better maps than that?

Mr Campbell—I have photocopied a map which shows it on a bit larger form. I do not want to take up too much of the committee's time, but perhaps I might explain.

CHAIR—Let me assure you that that is one thing you cannot do, because this is such a crucial issue before the committee.

Mr Campbell—The points A16 and A17 that I am talking about are not actually identified on this map, but you will see a line which refers to 'agreed seabed boundary' with the Zone of Cooperation in the middle of that line. Points A16 and A17 are the points at which the seabed boundary actually joins the Zone of Cooperation, on each side.

CHAIR—We cannot capture this in *Hansard*. Is that the point there?

Mr Campbell—That is point A17 on that side and that is point A16.

CHAIR—All right. We will mark that on there. So they are the points of contention?

Mr Campbell—They are the points between which the 1972 seabed boundary agreement left a gap to take account of the then Portuguese control over East Timor. That is the area referred to as the Timor Gap, which was actually filled up later by the Zone of Cooperation Treaty. It is those two points, which are called tripoints, where the interests of Australia, independent East Timor and Indonesia would meet. It is those points in which principally Indonesia might have a continuing interest—just in the location of those points.

In relation to that, Indonesia has, twice on subsequent occasions after the 1972 seabed boundary agreement, accepted those points as being reasonable points. Firstly, it did it in the negotiation of the Timor Gap Treaty itself—it continued to recognise those points. Secondly, it recognised those points again in what is known as the 1997 agreement between Australia and Indonesia establishing an exclusive economic zone boundary and certain seabed boundaries. In summary, it would be those two points on the eastern and western edge of the Zone of Cooperation which Indonesia might have a continuing legal interest in, but twice it has accepted that those points are in the proper location.

The second point concerns the 1997 delimitation treaty between Indonesia and Australia. That was a treaty which completed the negotiation of maritime boundaries between Australia and Indonesia. It has not yet entered into force. It has not been ratified. That treaty did actually delimit the exclusive economic zone boundary between East Timor and Australia. The 1997 treaty remains in a satisfactory form between Indonesia and ourselves, but it will have to be amended to reflect the fact that East Timor is no longer under Indonesian sovereignty. That concludes my opening statement.

CHAIR—Thank you.

Mr Potts—Let me state first of all that the Timor Gap Treaty has been, I think, a highly successful treaty in terms of functioning efficiently in creating a viable legal framework for hydrocarbon exploitation in an area where Australia and Indonesia could not agree on a classic seabed boundary. It is now obviously a functioning treaty, given production that is now flowing from the Elang-Kakatua field. Further investment and production is envisaged in coming years.

Obviously, however, events this year have altered the basis of the operation of the treaty, and I want to talk a little about developments which have impinged on it. The key development was the signature in New York of the tripartite agreement between Indonesia, Portugal and the United Nations, signed on 5 May 1999. The agreement set in train processes for ascertaining the wishes of the East Timorese population in relation to their future. The focus was on providing the opportunity for a popular consultation on the territory's future. In article 6 of the agreement it was made clear that the popular consultation was the definitive act of self-determination in that rejection of autonomy would trigger the commencement of a process leading to eventual independence for East Timor. The ballot occurred on 30 August and very close to 80 per cent of the voters rejected autonomy within the republic of Indonesia, thereby giving rise to the process of separation from Indonesia and an eventual transition to independence. This obviously has created a new situation in relation to the treaty.

The government considers that it is in the interests of Australia and the people of East Timor that the treaty's proven system of exploration and exploitation should continue, providing a stable legal basis for ongoing petroleum activities. The major Bayu-Undan field within the Zone of Cooperation offers the prospect of revenue flows to Australia and East Timor which could average several tens of millions of dollars each, annually, for over a decade from 2003. That would represent a significant proportion of current East Timorese GDP.

CHAIR—Australian dollars or US dollars?

Mr Potts—Australian dollars. In addition, activities related to the treaty will provide important employment and training opportunities for East Timorese across a range of disciplines from engineering to administration. The government therefore developed and is implementing a strategy aimed at ensuring the smooth transition of the treaty. This has involved consulting with all relevant parties, foremost the United Nations. The government has also had discussions with East Timorese representatives, particularly Mr Xanana Gusmao, Mr Jose Ramos Horta and Mr Mari Alkatiri, the latter being the East Timorese

spokesman on Timor Gap matters. They have confirmed both publicly and in discussion with Mr Downer and officials their willingness to see the treaty continue in its current form. The United Nations has indicated a similar view. We have been consulting closely with industry, ensuring that their views were taken into account in the government strategy.

There is a will for the treaty to continue, but how can this be achieved? If this were the usual independence scenario, a new East Timorese state could choose to succeed to the rights and responsibilities of Indonesia under the treaty in accordance with the principles relating to state succession. However, this is not the usual scenario. Indonesia no longer exercises sovereignty over East Timor. There is also a general view that Portugal should not reassert its sovereignty, even in the most technical sense, over East Timor. This view is shared by Portugal. But no new independent East Timorese state has emerged. We are left with the situation of there being no state with which to treat. In the absence of such a state, with whom can Australia enter into agreement to secure the continued operation of the treaty?

The answer we found when formulating our strategy involves a new precedent in international law. Under Security Council resolution 1272, which set up the United Nations Transitional Administration in East Timor, UNTAET, a transitional period of some two to three years has been established for East Timorese transition to independence. Under para 35 of the UN Secretary-General's report, which was incorporated by specific reference into the Security Council resolution, the UN will 'conclude such international agreements with states and international organisations as may be necessary for the carrying out of the functions of UNTAET in East Timor'. That is a direct reference from the resolution. This gives UNTAET a wide treaty making power which we would see as providing more than sufficient basis for the UN to enter into an agreement with Australia to confirm the continued operation of the treaty. Thus, in effect, the UN through UNTAET would be Australia's treaty party until the independent state of East Timor emerges down the track. The government is currently involved in discussions with the United Nations on the detail of the arrangements for the transition of the treaty. We would hope to conclude negotiations in the near future. Some adjustments will have to be made to the treaty, primarily to the arrangements for the joint authority which manages the rights and responsibilities under the treaty on a day to day basis.

While working to ensure the treaty's future, we have also kept in mind the need to deal in an orderly way with the treaty's past. We have had discussions at a technical level within the joint authority concerning the process of Indonesian disengagement from the treaty. Indonesian representatives, including most recently the Ambassador at Large for the Law of the Sea and Maritime Affairs, Hasjim Djalal, have expressed the view that Indonesia will no longer have a role to play in the treaty. This view is shared by the Australian government, and now that the separation of East Timor from Indonesia is complete we are commencing detailed discussions with Indonesia on the mechanics of Indonesian disengagement.

We are therefore well advanced on the path leading to continued operation of the treaty on a firm legal basis. In this context, we welcome the announcement on 26 October 1999 of the decision of the majority of Bayu-Undan co-venturers to proceed with development of this key field within the Zone of Cooperation. Phillips Petroleum—the lead operator in the consortium—said, in announcing the decision, it had had substantive and encouraging discussions with all relevant parties. That concludes the opening remarks of the Department

of Foreign Affairs and Trade but I understand my colleagues from the Department of Industry, Science and Resources would like to speak a little on operational matters. Thank you.

Mr Payne—I would like to draw out some key points from the Department of Industry, Science and Resources submission to the committee and then briefly comment on some matters that have arisen since we made that submission. First, the Timor Gap Treaty is a unique arrangement for enabling petroleum exploration and exploitation in offshore areas, subject to competing claims by two countries, and for the sharing of the benefits between those countries.

Second, the treaty arrangements have proven to be beneficial to both Indonesia and Australia. There has been an active exploration program within the Zone of Cooperation which has involved the drilling of 42 wells. The successful exploration program has resulted in the discovery of hydrocarbons in 36 of the wells and the identification in area A of about 400 million barrels of condensate and LPG and three trillion cubic feet of gas. These resources have been discovered in some medium to small oilfields, including at Elang-Kakatua and Jahal, and some large gas fields at Bayu-Undan and Sunrise-Troubadour.

Commencement of commercial production from the Elang-Kakatua field began in mid-1998 with a value of production to date of around \$A250 million, so far returning to each contracting state around \$A5 million in revenues from the production sharing arrangements. The activity in the zone has created employment opportunities for both Australians and Indonesians. The cumulative employment figure for area A of the zone since the commencement of operations in 1991 has been around 124,000 man-days for Australians and 80,000 man-days for Indonesians.

Third, the treaty and associated arrangements have worked well. They have attracted exploration and development to the Zone of Cooperation with significant industry investment. The treaty provisions have withstood the test of time and there has been no need to amend the treaty, the petroleum mining code or the model production sharing contract. From time to time various issues have arisen and have been successfully resolved through the joint authority and ministerial council.

I would now like to briefly comment on two important events that have taken place since we lodged our submission. First, a consortium led by Phillips Petroleum announced on 26 October that it would proceed with the first stage of the development of the Bayu-Undan field. This will involve the extraction of gas, stripping of the condensate and LPG liquids from the gas, and reinjection of the dry gas. The project will involve a capital expenditure of around \$US1.4 billion. It will provide significant employment opportunities to Australians and East Timorese. The operator of the project has indicated in evidence to the committee that revenues of ‘many tens of millions of US dollars’ a year are likely to flow to both Australia and East Timor.

However, as the operator stated, it is not possible to predict with certainty the likely revenues to flow to East Timor and Australia from the project. The actual revenues received will depend on the oil and gas prices received from the project. These prices are highly variable. Production rates tend to peak in the first few years of a liquids project and then

decline, while gas projects have a relatively flat production profile related to the requirements of their gas customers and the timing with which the various phases of the project come onstream.

Second, following the moves towards East Timorese independence, officers from the departments of Foreign Affairs and Trade, Attorney-General's, and Industry, Science and Resources have been liaising with officials from the United Nations and East Timorese representatives and have been in consultation with the petroleum industry to enable a smooth transition of operations under the Timor Gap Treaty. We are confident that smooth arrangements can be effected. These arrangements will need to cover issues such as the location of the headquarters of the joint authority, presently in Jakarta; appointment by the United Nations of appropriate representatives on the ministerial council and of people to participate on the joint authority; and the status of the existing production sharing contracts as well as the existing regulations, directions and other matters resolved to date by the ministerial council and the joint authority.

We have been consulting closely on these issues with the petroleum industry. In the meantime the joint authority arrangements are continuing on a business as usual basis. The joint authority held an executive board meeting last Tuesday in Jakarta at which several important issues were addressed, including matters relating to the Bayu-Undan project. Industry confidence in the continued workability of the treaty under the transitional arrangements is demonstrated by the recent decision by the Bayu-Undan consortium to proceed with their major liquids extraction project.

To facilitate an understanding of the treaty arrangements by United Nations officials and East Timorese representatives, we have suggested the idea of running a workshop in December on the treaty. We have received a strong expression of interest in the proposal and are currently working through the details of the workshop. That concludes the statement by the Department of Industry, Science and Resources.

CHAIR—Who is the workshop in December for exactly?

Mr Payne—Basically, we put forward the idea of a workshop which would run through the treaty and its operations in some detail. The East Timorese have come back to us with a suggestion that they were looking at lengthening the time of the workshop from two to three days and to make it, if you like, a more detailed technical exposition and discussion of arrangements under the treaty and exploration and production operations in the zone. So we are really in their hands. It is up to them to identify the numbers and type of people they wish to participate in the workshop. As I said, they would also include United Nations representatives and—at the East Timorese suggestion—possibly some Portuguese representatives. We are just awaiting a response from them so that we can finalise the details of the workshop.

CHAIR—Thank you. This has been something foremost on my mind throughout this whole inquiry because it provides the opportunity, if handled correctly, for a real income stream to be there for East Timor down the track. If it is handled badly or botched, it will be a real missed opportunity not likely to be picked up in the immediate future, given the time lag in the developmental processes.

I must say that I welcomed the appearances by Woodside in Perth and by Phillips in Darwin to that end. I have heard a figure bandied around as to what the long-term projected income might be on an annual basis. I understand that there is the start-up, that there will be a peak and that then there will be a downside as the field winds down, but I understand the life of that field is fairly healthy indeed. Is there an expectation on your department's part as to what the likely income flow will be?

Mr Payne—We are reluctant to put a figure on that because, as I pointed out in my statement, it is subject to a range of factors which are very hard to predict, particularly the oil price, which will determine the price at which liquids and gas from Bayu-Undan could be sold, and the different start-up dates for the phases of the project.

CHAIR—Given those uncertainties, are we looking at an income stream of—what did you say, Mr Potts?

Mr Potts—Several tens of millions of dollars.

CHAIR—Are we looking at a figure in the longer-term—I am not holding you to a date or a time frame—of \$10 million per annum or \$100 million per annum? A projected income of about \$100 million has been mentioned to us, which is not beyond the realms of possibility from this field. This is income that would go to the East Timorese and which would go, in some way, to take over from the money that was previously put in by the Indonesians. I am not getting into the politics of it, if you understand, I am just trying to get some idea of whether, with the withdrawal of Indonesian cash, which would take place over a period of time, this is going to plug a gap in the East Timorese economy.

Mr Payne—There would be no doubt that the revenues from the Bayu-Undan project would be significant to East Timor. If you are looking at the liquids phase, you would be looking at a peak of several tens of millions of US dollars a year going to both Australia and East Timor. But, as I pointed out, there is a fairly quick build-up with the liquids phase to a peak where you would be looking at several tens of millions of dollars of revenue but then it falls away quite quickly. If you are looking at a gas project, it has a different profile, a flatter profile, which is that basically the rate of production is determined by the demands of the customers. Also, there would be a fluctuation, as with the liquids, according to the price of oil. You are certainly correct that it would be a significant revenue earner for East Timor.

CHAIR—The other thing that was put to us in very simple terms, so pardon my simplicity in this, in interpreting the submissions made by the petroleum and gas people—that is, Woodside and Phillips—was that they were not interested in the politics of the issue. They were interested in the commerciality of the project, if I can call it that. From my point of view, they were basically arguing for a degree of certainty that the ground rules would not change, that there would be no substantial shift in the handing over from Indonesia to East Timor, or to whoever it might be, of the tax regimes that are in place, and that their basic commitments, which they have factored into their capacity and ability to make that a viable project, are not altered. You cannot just get someone who has a bright idea one morning and says, 'Look, we will twig that little factor.' That would, of course, have a knock-on effect somewhere else. I presume you would have received the same sorts of representations across-the-board. In broad terms, can you say that that expectation by those oil and gas

developers will reasonably be met out of what you now see unfolding? Will they have a degree of commercial predictability into the future?

Mr Payne—We certainly recognise the importance of that stability and predictability for a project like Bayu-Undan, which is a massive project. With the first phase of it, you are looking at \$US 1.4 billion and you are looking at long-lived projects so companies, understandably, need stability so they can make their decisions on investments. We have had indications from the East Timorese leadership, as was referred to in the opening statement here today from the Department of Foreign Affairs and Trade, that they are conscious of the need for the treaty to continue to operate in a way that companies understand and which is predictable so we are comforted by that.

Our expectation is that there would be a continuation of that stability because of that statement of the recognition of the circumstances of the companies by East Timor. Also, the United Nations will become Australia's treaty partner. I cannot pre-empt the outcome of discussions with them. We would expect the United Nations would be in very close contact with East Timorese leadership in determining their position on the treaty and we are hopeful that that level of stability will be provided. I think everyone recognises the economic importance of the possible revenues from the Bayu-Undan and other new projects which could start up in the zone.

Mr Potts—The sense, certainly from our department, is that things are on track for the sort of continuity that, as you rightly indicated, the companies are desiring. We are not there yet, obviously, because we do not have a formal agreement on succession but I think the auguries at this stage are reasonably good. We have a bit of detailed work still to be done and we are looking to the UN to work with us on that, and that is now beginning to happen.

CHAIR—The bottom line in all of this is that unless there is a spirit of goodwill it will not proceed. What you are basically saying to this committee, which we are grateful to hear, is that there is a spirit of goodwill there to see that this does proceed and proceed successfully for all the parties.

Mr Potts—Yes.

CHAIR—That has been my basic interest in all of this. You have answered the question in terms of existing developments that are taking place in the zones of cooperation. With respect to future developments, has there been any discussion about what might happen there? I presume your discussions have been confined to those who are players today. Do we know if the rules of engagement, if I can call them such, will be the same down the track? Do we know that the same basic construct of the treaty will remain in place? I am not looking for a detailed analysis of the legalities of the treaty, I am looking to get the flavour of what might face future prospectors in that area.

Mr Payne—The approach has always been that there ought to be one set of rules for all projects under the treaty. That was the way it operated with Indonesia. There has been an assurance received by Phillips from the East Timorese leadership, for example, which was taken into account before the companies made their decision to commit to the first stage of the Bayu-Undan project. We understand that the terms of that assurance talked about future

projects as well as existing ones. That was an indication that the East Timorese attitude is that there will be a predictable set of rules which will cover both existing and future projects, and that would certainly be the best way for operations in the zone to be carried out—where the rules that apply now will apply in the future. That helps companies when they are making the major investment decisions that they do when you are talking about oil and gas developments.

CHAIR—You referred to the number of man-days, and I think you said that 124,000 were Australian and 80,000 were Indonesian. One could assume that, as the project gathers even greater momentum, those will increase. Assuming that, in this development stage, that is a reasonably static number of days, nonetheless it would provide significant employment opportunities if one transferred the Indonesian days to the East Timorese. Will there be a need, either through the United Nations or through ourselves, to assist the East Timorese in obtaining the skills and the skill levels that are needed to take up the various man-days that are there? Has this been thought through at this stage, if we are going to give any assistance through training projects to assist the East Timorese to be able to take their place at the table—not in running the joint authority but in sharing the work that seems to be generated by the joint authority?

Mr Payne—Possibly my Foreign Affairs and Trade colleagues might comment on an aid approach to training, but what you have identified is obviously an issue if you are looking to equalise opportunities for the other treaty partner, as we did with the Indonesians and with Australian workers. We would be attempting to make those same opportunities available to East Timorese workers. There is a World Bank survey being undertaken of the training needs of the East Timorese population, to help them participate in a truly independent state. Part of that would be to identify the kinds of skills that they would need if they were to take advantage of the opportunities presented under the treaty.

CHAIR—What sorts of jobs are they? Do we know what the 80,000 man days were for, that the Indonesians attracted last year?

Mr Payne—Those figures cover all activities related to exploration as well as production in the zone, to date.

CHAIR—So some would be straight labouring jobs; some would be technical jobs, such as in engineering and so on; some would be vocational jobs, such as welders, electricians and so on?

Mr Payne—Yes; and engineers and geophysicists.

CHAIR—Who employs these people?

Mr Kjar—Can I add to that, Chairman.

CHAIR—We would love you to.

Mr Kjar—The production sharing contractors who have taken out their contracts within the Zone of Cooperation are generally the primary contractors and they generally employ the

people on the production facilities—although there are several subcontracts which they let, such as the production facility, the Modec venture, which is being used at present to develop Elang-Kakatua and is under a subcontract arrangement. The subcontractors are effectively subject to the same requirements as the principal contractor, in terms of employment. The skills required—as you and my colleague have indicated—are quite broad, but they are generally of a moderate to highly skilled nature, and so they do require significant competence on the part of the employees. And there is at all times the requirement for good oilfield practice and especially safety. So there will be quite a requirement in terms of training to get people up to a level of skill to be able to participate on these facilities.

CHAIR—Whose responsibility will that be?

Mr Kjar—At this stage, primarily it is an issue for East Timor and the United Nations to determine their priorities. Their priorities might be for other matters—reconstruction or development of infrastructure—or they may wish to also participate in these offshore facilities, as there are prospects of oil and gas developments onshore in East Timor and just off the coast. That is a matter for them, primarily.

We have also been holding discussions with the production sharing contractors in terms of whether there are opportunities for them to provide training and work experience for East Timorese. As we work our way through with the joint authority and the workshop which we will be having in December, and as we continue with those sorts of discussions through the ministerial council and through the joint authority, we would be hoping to get an indication from the East Timorese of where their priorities lie and where the industry can fit in with aid agencies—whether they be AusAID, World Bank, Asian Development Bank or the other aid and service providers.

CHAIR—When it comes to the employment arrangements, who determines the sharing arrangements? Is that part of the treaty itself?

Mr Kjar—Under the treaty, the production sharing contractors have the objective to provide preference for employment of Australian and Indonesian nationals in equal numbers. Again it is subject to the requirement of good oilfield practice. To date, as we have indicated, the imbalance has been in Australia's favour; that is gradually being worked back towards Indonesia's favour with employment on the Modec venture, which is strongly in favour of Indonesia. Those arrangements are primarily the responsibility of the production sharing contractors—in order to meet the terms of their contract—with encouragement through the joint authority and the ministerial council.

CHAIR—Is there currently any production in area C? I understand production in that area is more weighted towards the Timorese end.

Mr Kjar—Area C is that small slither at the northern part of the Zone of Cooperation, above area A. It is under Indonesian jurisdiction. At each ministerial council the minister from Indonesia has given a report on activities in area C and the Australian minister has given a report on activities in area B. As far as I am aware, to date there has been no exploration carried out in area C. It is not seen as particularly prospective.

CHAIR—Is that because of its depth?

Mr Kjar—Partly because of its depth, but also because of the geology of the area. Because of its depth and its movement down into the Timor trough it is a difficult area to work in. In area B, the Australian area of jurisdiction, there has been some exploration, both seismic and drilling of wells, but to date they have not found any hydrocarbons.

Senator BROWNHILL—I am not as legally trained as I would like to be, so I would like the legal counsel at the table to answer some questions to get me right. You discuss in your submission what would happen if East Timor eventually became an independent state. You say that the law is ‘complex and unsettled’. That worries me. You have reiterated that today. Then you go on to say that one of the things required is the convention, but that Australia is not a party to either of the conventions mentioned on page 4 of your submission, which I know was made in April. I am trying to get this right in my own mind before I start asking questions. You go on to say that ultimately the issue of state succession must be determined on a case by case basis drawing on relevant international law and practice, but the law is complex and unsettled and, most probably, we are not a signatory to some of the conventions anyway. Can you get me up to date before I go any further?

Mr Campbell—We were looking there at the situation where you had East Timor becoming immediately independent from Indonesia without this period of UN interim administration in the middle, and whether East Timor could automatically be taken to have accepted the obligations of Indonesia under the Timor Gap Treaty. When one state or one part of a state separates from an existing state you have the question of whether that new state takes on the treaty obligations of the previous state or whether you have what is called a ‘clean slate’, in other words, they can start again and choose the treaty obligations of the former state which they will take on later. In those circumstances, and I am afraid it is one of those areas where international law is unclear, there are two relevant conventions, but Australia is not a party to them—Australia is not the only country not a party to them; there are not a lot of parties to those conventions—so then we go back to customary international law. In terms of customary international law, if you were looking at East Timor becoming immediately independent from Indonesia without this interim period of UN administration, our view is that they would be subject to this clean slate doctrine. In other words, they would not be forced to take on the treaty obligations of Indonesia, but nevertheless they could choose those obligations which they did want to take on.

Senator BROWNHILL—I am starting to understand. My first question is to do with this transition period, because in effect there is no government in East Timor, is there?

Mr Campbell—My colleague from the Department of Foreign Affairs and Trade has mentioned before that the resolution of the UN Security Council creates this UN transitional administration which will have the role of administering East Timor for a period of time and it will have the law making and the treaty making role in East Timor for that period of the interim administration.

Senator BROWNHILL—The East Timorese will more than likely have no say in the further negotiation of the Timor Gap Treaty.

Mr Campbell—My colleague might like to answer that, because they are being given a say.

Senator BROWNHILL—Who is going to sit in on those negotiations when they have not even got a government, for example?

Mr Potts—Firstly, on the question of the government, there is a government under construction now for East Timor. The resolution that was adopted by the Security Council of 25 October sets up this new transitional administration called UNTAET. The Secretary-General has nominated the first transitional administrator, Sergio Vieira de Mello. He will be arriving there on about the 16th of this month. There is already an acting transitional administrator, Ian Martin, who was previously the head of UNAMET, the precursor. But the reality is that while UNTAET is legally already the government it does not have the people on the ground to make it so writ effective. It is going to take some little time to get the international civil servants on the ground to set up an effective administration. There is talk of about 400 international personnel constituting the core of UNTAET. That will take two to three months until it becomes fully effective. So we are in a period of some hiatus at the moment.

On the question of consultation with the East Timorese, I think the UN has foremost in their mind the perception that they are a trustee for this interim phase and that they need to associate the Timorese at all levels of their administration. They are still working through how they are going to carry out that consultation, but they are clearly looking at some form of national consultative mechanism, as well as consultative apparatus—some sort of committee, or something—in each of the 13 districts.

I should add as well that during the transitional period, which most people envisage as being some two to three years, they will be looking at holding national elections in East Timor, first of all, to set up a constituent assembly to write the new constitution, but, secondly, also to constitute the first government which would actually lead East Timor into independence. Over the duration of UNTAET more and more you will see the East Timorese associated with it, certainly from the beginning, but all the way through. That is certainly what the UN is saying to us.

Senator BROWNHILL—I do not know whether you have answered exactly to my dissatisfaction, dissatisfaction or satisfaction, but I cannot quite get where the East Timorese will have any part in that in the next two or three years basically, when this treaty will be renegotiated. It is going to be done by a force outside the East Timorese.

Mr Potts—I think the East Timorese—and certainly some of the ones we have spoken to—are very conscious of the need for them to assert their own interests in the treaty themselves. There is no doubt about that. They have a lot of confidence in the United Nations, but at the same time they will be looking to make sure that their own views are conveyed directly to the United Nations. We understand that some of their leaders will be going to New York shortly to talk specifically to the United Nations about the operation of the Timor Gap Treaty and what their expectations are of the United Nations. They may have something to say about the respective roles of UNTAET on the one hand and themselves on the other.

Your question is a very current one. It is one which both the East Timorese and the United Nations have at the front of their minds, particularly the East Timorese. It is fair to say that, because the United Nations administration is only just getting itself into operation, they are not as well geared up at this stage, but I would expect that to change pretty quickly.

Senator BROWNHILL—I have had to become an instant international law consultant, and that is the difficulty. This is complex, isn't it? It is not an easy one.

Mr Campbell—The actual resolution 1272 of 25 October which sets up the UN transitional administration does stress the need for UNTAET to consult and cooperate closely with the East Timorese people in order to carry out its mandate. That would include the question of keeping the treaty on foot.

Senator BROWNHILL—Could you table that document?

Mr Campbell—Sure.

Senator BROWNHILL—Your submission says:

Whether or not a new state takes up the treaty obligations of its predecessor state may depend on a number of variables including:

. . . the manner in which the new state was created, . . .

It goes on about other things and then states:

. . . the particular type of treaty obligations in question . . .

And it has other bits attached to it, too. How was this new state created in legal terms? Was it because of a separation from the territory of a predecessor state, or was it the result of the colonisation, something else or inadvertent adventure?

Mr Campbell—Can I make two points? I think there is no doubt that it is separating from Indonesia, so it is separating from an existing state in that sense from our point of view.

Senator BROWNHILL—Was it legally ever a part of Indonesia?

Mr Campbell—This is the point I was going to get to. Australia may hold a slightly different view on that point to other countries, because Australia was one of the only countries to have recognised Indonesian sovereignty over East Timor. In our sense, it is a separation of East Timor out of what was previously Indonesia, but other countries might not view it that way. Other countries did not recognise Indonesian sovereignty over East Timor.

Senator BROWNHILL—I am trying to get around to this clean slate business. You go on to say:

Newly established States which do not result from a political dismemberment and cannot fairly be said to involve political continuity with any predecessor, start with a clean slate in the matter of treaty obligations . . .

Mr Campbell—That is right. In this situation what we have is a UN Security Council resolution which is binding on us as a matter of international law, saying that there will be a UN interim administration in East Timor which will be responsible for the administration, including governance of East Timor and its treaty relationships for that period of the interim administration. That is what we have to look to immediately in terms of getting continuity in the treaty.

Senator BROWNHILL—Can you tell me that the Security Council overrules international law?

Mr Campbell—As a matter of international law, a resolution of a security council will override other treaty obligations of a country.

Senator BROWNHILL—Is that right?

Mr Campbell—Under the UN charter.

Senator BROWNHILL—I thought the law was set in concrete and that was what people abided by. I did not know that you had a meeting of the Security Council which can then override it and say, ‘We as a group of the security council this particular year are not going to play by the rules.’ I am not being provocative. I am trying to get to the guts of this.

Mr French—Can I expand a little bit on that principle. With regard to the clean slate principle, it does not exclude the possibility of continuing treaties in operation. What the clean slate principle tells us is that the new state is not bound to take on this old obligation, but it can if it wants to. Senator Hogg hit the nail on the head when talking about an expression of will by the key parties to say, ‘This is a treaty that we think is in our interests. Let’s go forward with this.’

Therefore, under the circumstances of the clean slate doctrine in this circumstance, you then need an expression of will from the relevant parties. Under this unique situation the relevant party at the moment is the United Nations. All the signs are positive that this common will is being expressed. That will allow the treaty to continue. Clean slate does not mean in this context that the Timor Gap Treaty cannot continue. It simply means that we would require this express statement of the will for it to continue. That is how we see the process unfolding.

In that context also there will be a clear recognition, as Mr Campbell has mentioned, in the Security Council resolution that there must be close consultation and cooperation with the East Timorese people, so we are at the same time building into that process the expression of will of the people who will carry it forward into the future, the East Timorese themselves.

Senator BROWNHILL—It would require the Indonesian government to actually agree to any changes as well?

Mr French—No.

Senator BROWNHILL—Indonesia would not even enter into it?

Mr French—No. Indonesia, in a sense, is the past of the treaty and, as Mr Potts mentioned in the opening statement, there are details which are being tidied up in terms of Indonesian disengagement, but Indonesia—and representatives of Indonesia have said so publicly—would have no role in the future.

Senator QUIRKE—There are no oil or gas reserves on the West Timor side of what would be continuing Indonesian territory?

Mr Kjar—There are petroleum developments currently operating outside the Zone of Cooperation but on that western edge, and two petroleum developments proceeding just at present, one called Laminaria which has just started up production, and a second one called Buffalo, which will be installed in the next few months. But they are outside the zone in Australian seabed jurisdiction.

Senator BROWNHILL—In simple terms, can I say to the Attorney-General's Department that there are no legal barriers to East Timor and Australia signing off on a future agreement on the coffin?

Mr Campbell—There are no legal barriers to that.

Senator BROWNHILL—What about DFAT?

Mr Potts—We would certainly share that view. We are as one on this.

CHAIR—This is good. Unanimity is breaking out. What next?

Mr Potts—The only thing I would add, of course, is that there is no legal impediment to Australia and East Timor concluding a succession arrangement, but that is subject to working through the transitional period of two to three years. We do not have a normal independent East Timorese government at this stage, but in the broad your question is absolutely correct.

Senator BROWNHILL—My last question then will be: what about the Department of Industry, Science and Resources? Do they agree?

CHAIR—I think Mr Jennings is bursting at the seams to add something.

Mr Jennings—It comes back to the point about the capacity of the Security Council to adopt resolutions and their binding nature on members of the UN. If you look at resolution 1272 that was adopted, the last preambular paragraph says that the Security Council is acting under chapter VII of the charter. This chapter deals with situations where there are threats to international peace and security. It gives very significant powers to the Security Council to adopt resolutions which become binding on members and relate to the Security Council's efforts to restore international peace and security.

Another example of where the Security Council has acted under chapter VII relates to the establishment of the international war crimes tribunals for Yugoslavia and Rwanda. The

Security Council has adopted resolutions establishing those two tribunals to deal with persons who are alleged to have committed serious crimes against international humanitarian law. All UN member states are required to cooperate with the tribunals in the execution of their duty and the investigation and prosecution of these persons. It is a very significant power that the Security Council has under chapter VII. We see an example of it here with the creation of the transitional authority. Very importantly, it has also established international and judicial tribunals during the course of this decade acting under chapter VII of the charter. I hope that explains perhaps a little about the capacity of the Security Council to act under this particular part of the UN charter.

Senator BROWNHILL—I did not know that I was so important when I was representing Australia at the United Nations. What about the Department of Industry, Science and Resources?

Mr Payne—We are in agreement with the comments on that issue by the other two departments.

Senator BROWNHILL—My case rests, your honour.

CHAIR—The obvious reason for us raising this and the continuing importance of it is that there have been a number of groups who appeared before us with the best of intentions and the best motives in their submissions, putting forward a wide range of ideas as to what might, should, could or would happen with the Timor Gap Treaty. We welcome your collective wisdom today in clarifying the matter in fairly technical terms for the inquiry.

Senator BROWNHILL—To laymen.

CHAIR—That is right. But is there a way in which this could be summed up for the average person who is not across all the technical minutiae of what is happening? Would it be fair to say that under the transitional arrangements the East Timorese have indicated that they will pick up what was previously the Timor Gap Treaty with Indonesia and that it appears that there will be no change of a substantive or even a minor nature to that treaty which will impact upon the ability of operators in the zone of cooperation into the future? Is that a fair way to typify it? I know I am not getting down to the legal minutiae, but is that a reasonable way to do it?

Mr Potts—I would probably say that that is pretty close. I would put it perhaps slightly differently.

Senator BROWNHILL—How close is ‘pretty close’?

CHAIR—What we want is the simple English version.

Mr Potts—As matters stand, we can be confident that the East Timorese would like the treaty to continue and to bind them once they become a state and that, in the interim before they are a state, they would like the United Nations to exercise their role in waiting until they achieve independence. I think that is probably a fair summary.

CHAIR—All right, but apart from that it is steady as you go. Phillips have indicated their satisfaction by saying that they are going to go ahead with their \$US1.4 billion investment in the area and that there seems to be no reason why, at the end of the day, there should not be some expected return, therefore, to the East Timorese nation as it moves from a transitional state into full nationhood. Is that a reasonable statement to make?

Mr Campbell—Yes, I think it is.

Mr Payne—I have one point in response to that. If you look at the press release that Phillips put out announcing their decision to proceed with Bayu-Undan, they made a reference there to having had substantive and encouraging discussions with all relevant parties involved in East Timor's transition to independence. I think we have identified what the range of parties is, and Phillips have had assurances which have satisfied them that it is worth while committing themselves to going ahead with a project worth well over a billion dollars.

CHAIR—My last question is: have any parties in the consortia had any reservations about investing in the project? Do we know?

Mr Payne—I do not think it would be proper for us to comment on that issue. That is a commercial issue which I think the committee would be best to put to Phillips, as the operator of the project.

CHAIR—All right. Thank you very much.

Senator BROWNHILL—As far as war crimes are concerned, do they come within the bailiwick of DFAT in some way, or is it more the Attorney-General's Department?

Mr Campbell—It is shared.

Senator BROWNHILL—Does that then have an overall effect on other agreements and that sort of thing, or does that just get covered under international law? In other words, the pursuit of that is beyond Australia or beyond anything associated with us. That is just with the United Nations, the war crimes tribunal and Ms Robinson, is it?

Mr Campbell—That is an issue for which a commission has been set up within the United Nations to investigate allegations of crimes against humanity in East Timor, and it is really the responsibility of the United Nations to do that.

Senator BROWNHILL—Would the same thing go as far as land holdings are concerned, for example? We have been given evidence that the Suharto family acquired large tracts of the arable land in East Timor. Does the bona fide ownership of that then go back through international law to see whether it was properly and fairly purchased or whether it was acquired?

CHAIR—I just do not know whether Attorney-General's have come prepared for that specific issue.

Senator BROWNHILL—I am sorry. I made the point that I am not fishing, but I wonder whether I could get a little bit here—

CHAIR—No, I think they are here for the Timor Gap.

Senator BROWNHILL—I realise that.

CHAIR—You are asking for a bit of free advice on the side. I do not blame you.

Mr Campbell—There are issues relating to continuity of property, where you have one part of a state leaving another one. That will be an issue, but I really could not answer that question in detail today.

CHAIR—Maybe that is the sort of thing we need to get the Attorney-General's Department back for, or is that a DFAT area?

Mr Campbell—All I am saying is that it is very early days on that point at the moment.

CHAIR—Whom would we ask that question of, though?

Mr Campbell—You could ask it of the Attorney-General's Department and we could give you a legal analysis of it, but we do not have the knowledge of the sort of property that you are talking about. You have mentioned one type, which is assets of the Suharto family.

Senator BROWNHILL—It only came back to one of the first questions I asked about the Timor Gap as to who the legal person was who was in control of East Timor.

Mr Campbell—There is no doubt that for the period of the UN interim administration the UN administers East Timor and virtually governs East Timor. The UNTAET will have the authority to make laws and, as I said, it will also have a treaty making authority. I think there is a reference in the Secretary-General's report to existing law in East Timor remaining in force pending a change by this UN authority.

Senator BROWNHILL—You have answered the question to my satisfaction, thank you.

CHAIR—I thank the officers from the Attorney-General's Department, the Department of Foreign Affairs and Trade, and the Department of Industry, Science and Resources for sharing their knowledge with us this afternoon. Undoubtedly, you have shed a bit of light on the complex issue that has been brought before this committee and we are pleased to hear that reasonable progress has been made in that area. We thank you for your attendance this afternoon.

[3.21 p.m.]

GRAY, Mr Bill, Electoral Commissioner, Australian Electoral Commission

MALEY, Mr Michael Charles, Director, Research and International Services, Australian Electoral Commission

CHAIR—Welcome. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private you may ask to do so and the committee will consider your request. The committee has before it your submission. Are there any alterations or additions that you would like to make to the submission at this stage?

Mr Gray—No.

CHAIR—I invite you to make an opening statement and then we will proceed to questions.

Mr Gray—We have provided the committee with a submission dated 10 November. It seeks to outline and give some details on the involvement of the Australian Electoral Commission during the East Timor consultations and the part that it played in the conduct of the ballots, particularly in Australia—although we identify the role that AEC officers played in assisting the authorities in preparing for and conducting the ballot in East Timor. In our submission, we seek to broadly outline our approach, identify the forms of assistance we provided and make reference to the assistance in the area of computerisation, which we supported. We also identify the training effort that was made by the AEC in support of United Nations personnel going to East Timor for the purposes of the conduct of the ballot and the role that we played in briefing official Australian observers in the delegation that went to East Timor to observe the ballot.

We then make the concluding observation that we believe the AEC was able to provide the United Nations with critical assistance. In support of that view, we have provided you with the text of a letter which was forwarded to me by Carina Perelli, who is the director of the electoral assistance division in the Department of Political Affairs in the United Nations. In that letter, dated 20 October 1999, she makes the point that, without the assistance that was given by the AEC, she did not think the ballot would have been successfully conducted. So it is a matter of some pride for the AEC and the officers involved to have played such a direct and, I think, important role in supporting the conduct of the ballot in East Timor.

CHAIR—Thank you very much. I must compliment you on the submission and on the work that was done by the AEC in the conduct of the ballot. I have a couple of issues that I want to raise before I pass questioning across to my colleagues. At point 4 in your introduction you say:

The AEC was never satisfied that the framework within which the ballot was being conducted was such as to provide an acceptably safe working environment for staff, and had a particular concern that unarmed, civilian electoral officials would be prime targets for opponents of the process, if the latter felt minded to undertake a campaign of disruption.

What led you to that conclusion? Was there anything specific? Was there information that had been passed on from another department or was it just a general observation that had been made from what you had picked up in the public arena?

Mr Gray—It was an assessment which was based on our participation in a number of forums during the course of the lead-up to the ballot and on our awareness of the circumstances which pertained in East Timor. That awareness arose from discussions with people who were capable of making those sorts of assessments, particularly in relation to security, and was also based on the experience that other officers within the AEC were able to make consequential upon past experiences; for example, Cambodia. So there was a measure of judgment included but it was a judgment which was not a superficial one; it was based upon the discussions and consultations that we had with a range of people within government leading to the conduct of that ballot.

CHAIR—Did you think that would diminish your capacity to deliver a reasonable ballot process? Ultimately, that has not proven to be correct from the testimonies that I have read on the conduct of the ballot. But at that stage did you have a fear that it might in some way impact upon your ability not to conduct the ballot but to be a bona fide and active participant in the ballot process?

Mr Gray—No, I think we realised that certainly—to the extent that we could—we could support and provide assistance within the Australian context. But it was not a ballot that was proposed to be conducted by the AEC in East Timor. Consequently, the ballot was not in a sense reliant upon our presence in East Timor for it to succeed. I think what we have shown—and what was done—was to support that effort in such a way as to ensure that those who in fact went under UN auspices were capable and indeed best prepared to undertake that ballot.

CHAIR—I notice that you did not do some briefings of UNAMET officials. Is that correct?

Mr Gray—We did.

CHAIR—Did you do any other briefings of any other people who were going to be present for the ballot?

Mr Gray—I think we made mention in the submission that we did in fact brief the observer delegation before it left for East Timor. I will ask Mr Maley for the details.

Mr Maley—There were a couple of briefings that we did for Australians. Specifically, we briefed the Australian Federal Police contingent that was deployed to East Timor on our understanding of the electoral procedures that were going to be implemented, and you would recall from the security agreement that CIVPOL of UNAMET had a specific function to do with the securing of election materials and the transport of ballot boxes.

We also briefed the Australian observer mission late in August, prior to its departure for Timor. We were also involved quite heavily in the briefing of UN volunteers who were to serve as district electoral officers as part of UNAMET. We did that in mid-June up in

Darwin in cooperation with the UN but our training officers developed training materials based on the procedures and directions that had been developed up to that point and presented training sessions for them. But the work that was done for the UN was very much focused on the electoral procedures that were to be specifically implemented almost as soon as they hit the ground in East Timor.

CHAIR—Did you brief any NGOs at all?

Mr Maley—We were not really involved with NGOs because the UN was performing the sort of function of ensuring the proper conduct of the ballot, which in other circumstances might be undertaken by observer delegations deployed by NGOs.

CHAIR—I understand, from my reading of your submission, that there were official observers from Indonesia present as well. Is that correct?

Mr Maley—Yes.

CHAIR—It seems to me that your processes were of the highest order and got a clean bill of health from anyone who was observing the practices that you were undertaking. As that seems to be the case, I congratulate you. Now I am not going to impact upon what I believe will be the questions of my colleague.

Senator QUIRKE—I have a couple of matter to raise. I gather you constructed the roll for the ballot. Is that right?

Mr Gray—We played a part in its preparation. We did not construct it, in the sense that the original material was collected in East Timor at the time of registration, that material was passed down here to Australia and then—through the processes identified in the submission—we were able to compile a printed list which was then returned to East Timor.

Senator QUIRKE—Who determined who could vote and who could not?

Mr Maley—Perhaps I should run you through the whole registration process. Registration centres were set up at 200 places within East Timor. The people who were running those registration centres were the district electoral officers of UNAMET, the UN volunteers whom I mentioned earlier. The people were then given the opportunity to come to those registration centres during the registration period, which was initially 20 days and was subsequently extended for a couple of days.

The people were required to present two types of document: a document which would identify who they were and establish identity, and a document which would establish that they were qualified to vote within the definition of being East Timorese, which was set out in the Modalities Agreement. The decision as to whether to register a person on the spot was made by the district electoral officer. If the person was refused registration, he or she had the opportunity to subsequently appeal over that registration.

Once the registration was effected, the voter was issued with a registration card and there was a record made for the UN's purposes of the voter registration. That was done in two

copies. One copy was retained at the registration centre where the person registered and the other one was sent back through a quite complex logistics system to Dili and then to Australia. Those records were then data entered at a data entry bureau in Sydney contracted directly by the UN. The data from that process, once the entire registration had concluded, was handed over to the AEC and read into a database that we had set up, which was based on the RMANS database that is normally used for federal elections here.

Having done that, we then ran software programs which were associated with our normal roll production mechanism to produce CD-ROMs with print files on them which were sent off to a printer contracted by the UN. The UN then transferred the printed lists back to Dili, where they were sent out to the registration centres and put on display. At that point, after the display of the lists, people who objected to the retention of a name on the register had the opportunity to lodge a formal objection, not unlike the objection process we have in Australia. I do not have the statistics with me but there were relatively few appeals and relatively few objections, as a result of which a second print of the original preliminary list was able to be used as the final list of voters during the polling.

Senator QUIRKE—Were East Timorese who live now in Australia or, for that matter, in other parts of the world allowed to vote?

Mr Maley—There was certainly provision made for that.

Senator QUIRKE—How were they enrolled?

Mr Maley—We set up registration/polling centres at four sites in Australia, which were specified in the Modalities Agreement as being Sydney, Melbourne, Perth and Darwin. Quite a number of registration/polling centres were also set up at other sites specified in the agreement in other countries—for example, Jakarta, Denpasar, Surabaya, Ujung Pandang, Lisbon, Macau, Maputo, New York, and so on. So a limited service was available in accordance with the parameters laid down in the Modalities Agreement, but about 13,000 people outside East Timor registered, and the great majority of them voted.

Senator QUIRKE—In the case of people who were living in Indonesia, at that time anyone who was an East Timorese was an Indonesian citizen. What about in Australia? You must have had a large number of these people who were now Australian citizens and who had been Australian citizens for maybe 20 or 30 years. Were they excluded from the vote?

Mr Maley—No. There was not a concept of East Timorese citizenship so, as typically happens in these transitional situations, there was an empirical definition of being East Timorese—which was set out in the Modalities Agreement—which essentially said that you were defined as an East Timorese if you had been born in East Timor, had a parent born in East Timor or were the spouse of someone in either of those first two categories.

In determining people's qualifications, we were not looking at questions of citizenship but rather where they were born, where their parents were born and, in certain circumstances, where their parents-in-law were born. To give effect to that, the UN specified a range of different documents which had to be produced to provide evidence of these points. They included birth certificates, various baptism certificates issued by the church, various family

books which had had a traditional use in East Timor and a range of other documents. Our staff in Sydney, Melbourne, Perth and Darwin had to come to terms with documents in a range of different languages.

Senator BROWNHILL—I have asked everyone who has appeared before us, except the Attorney-General, a question on the following. We are told of all the supposed genocide. We are told of the number of missing people and that sort of thing. On your computerisation of the voter register and the fact that it was all done absolutely to your satisfaction, can it now be used to give a rollcall for the East Timorese people?

Mr Gray—Yes, it can. It is a very important piece of information. It is in the hands of the United Nations now, and I think it will become a very important and relevant point of reference for any of the work that may then be conducted in respect of missing persons and the issues and events that occurred there immediately following the ballot.

Senator BROWNHILL—Because there were no recriminations wanting to be put on people who voted different ways, all the ballot boxes came back and got mixed up, didn't they? Nobody can say of such an area, 'This was the vote.' Now, it is quite interesting that there are a lot less people there than before, but they all voted for independence. It isn't possible to trace back that way, is it?

Mr Maley—The counting procedures that were adopted made it absolutely impossible to tell how any particular area had voted. Quite a detailed process was developed in consultation with us, the International Organization for Migration and the UN of reconciling the contents of ballot boxes and then systematically mixing the contents of ballot boxes from different provinces so that when a bunch of ballot papers came to be sorted according to the vote for autonomy or independence, they all contained ballot papers from at least 10 different parts of the territory. It would make it absolutely impossible to tell how any part of the territory had voted. We implemented this process ourselves at the count in Melbourne. Again, there was absolutely no way of telling how any individual place voted—except in the case of the Australian vote, which was a rather overwhelming vote one way. That reduces the possibility that any area could have voted differently.

Senator BROWNHILL—That is the voting side of it, but is the registration to vote still applicable to a certain village or area?

Mr Maley—Yes. Every voter registration card carried a code number which identified the registration centre at which the person in question had registered.

CHAIR—Is that the serial number that you referred to in your submission?

Mr Maley—Yes, that is the serial number that was printed on the voter registration card. It was printed on the voter registration record—which, as we note in our submission, the UN has asked us to help image permanently. It was used as the basis for sorting the lists of voters that we used at the polling station so that they were sorted in numerical order. It was possible for a person to register at a place which was not necessarily their permanent place of living, but there is no particular evidence to suggest—as far as I am aware—that people

were engaged in mass movements that kept them away from where they wanted to register, with the single exception of the problem of the IDPs which existed at the time.

Senator BROWNHILL—So if you registered, you registered in village X and gave your sex?

Mr Maley—There is quite a lot of information.

Senator BROWNHILL—Did you give your age as well?

Mr Maley—Date of birth, from memory.

Senator BROWNHILL—Same thing, I guess.

Mr Maley—Sometimes there is uncertainty about people's dates of birth. It gets a bit copy in circumstances where people are identified with an affidavit rather than a birth certificate, and sometimes the data is clearly dubious on a birth certificate. But quite a lot of date of birth information is gathered about individuals.

Senator BROWNHILL—Did they have to put their mother's maiden name or something like that?

Mr Maley—In certain circumstances they did. One of the issues that makes it important for us to image the voter registration records is that not all of the information that was on those records was captured in the data entry process. Because of the time constraints which the UN was facing in getting the lists ready for the ballot, the data that were captured were essentially those which were needed for the production of the lists. But there is other information on each of those hard copy forms that has not yet been data entered, and that includes quite a bit of information particularly relating to people who qualified not because of where they were born but because of where their parents were born or where their spouse's parents were born.

Senator BROWNHILL—As far as the referendum is concerned, the people who visited—the parliamentary representatives—were full of praise. I do not think there were any detrimental comments at all from Senator Payne, Senator Bourne, Mr Fischer or Mr Brereton. Its big use now, in my opinion, is in trying to find the people who are missing. I asked about age and that sort of thing because some of the people who voted might have been subsequently conscripted or been members of the militia before they registered—this is no problem for you; I am only thinking aloud for the benefit of putting it on the record—so those people might be back by their own choice in Indonesia, and they may not be under the ground. I think the job you have done in voter registration is going to be the biggest help in the world in getting East Timor going again in the way that it should. I cannot do any more than congratulate you on doing a good job—which you do most times, by the way, in the federal elections as well.

CHAIR—How did you overcome the problem of dual registration or duplication, whether it be by intent or by some sort of contrivance?

Mr Maley—We were able to make use of some of the software that is part of the RMANS system which can identify potential duplicates. As part of the processing exercise that we underwent when we were producing the files that went to the UN's printers, we produced quite detailed reports which we provided to UNAMET identifying what we thought were showing up as possible duplicate registrations.

CHAIR—Can you give me some idea how many possible duplicates there were?

Mr Maley—It was not a large number and you cannot really pin it down accurately because it depends on the search criteria that you build into the software. You can start by saying that you want—

CHAIR—You have answered my question, that it was not significant.

Mr Maley—It certainly was not significant. In certain circumstances you get cases where people simply come back and register twice for some reason. It may be for any number of reasons which are not clear. You also get situations where people have names that are very similar. There are prodigious numbers of da Costas and da Silvas and so on within East Timor. You get a situation where dates of birth are unusual in that you often find that people will be registered for an arbitrarily chosen date of birth. They will always use 1 January, for example. So in looking at the lists we found that you get a lot of people with common names who were showing up with the same date of birth, 1 January, in a particular year.

Senator BROWNHILL—From the same family?

Mr Maley—They may be from the same family, and apparently it is not unusual either in East Timorese culture for names to be handed down. But you also get situations which were plainly twins, you get situations where people were probably not duplicates but simply were not capable of being distinguished by the software because their dates of birth were not accurately recorded and so on. Some of them were plainly not matters of concern and you could come up with a reasonable explanation simply by looking at the data. Others were things that UNAMET subsequently investigated and went back and checked and in some cases had the opportunity to cancel registrations if they had a concern about these things. But the numbers were not significant.

CHAIR—I understood you to say that you were not able to capture all the data from the registration process on the computer. What sort of information was left off? Can that now be captured and subsequently added on, and is that of any value for the problem that Senator Brownhill has quite rightly referred to throughout this inquiry, and that is ultimately using that as some sort of census list, if I can use that broad term, to do a check as to who are still there and who is not there and maybe form the basis of some search document?

Mr Maley—We think that potentially there is great value for that. We have already handed over to the UN the data that we did capture. We have been having ongoing discussions with the Electoral Assistance Division in New York about a process for making sure that what is currently only in hard copy is put in some sort of more permanent form. What we have been talking about is doing some sort of digital imaging of the forms, rather as we do with electoral enrolment forms here. That has a number of advantages as a process.

Firstly, you have a permanent record that is not going to deteriorate with time; the original was on multipart stationery. Secondly, you have the capacity to make that information available in one form or another, not just at one place where all the hard copy forms are stored but potentially at different sites within the territory if there are people trying to investigate and reconcile the existing population in, say, a year's time from what was the case in the period immediately before the troubles. So the data that has been captured is already quite useful, and certainly the extent to which it was captured met the immediate needs of the ballot because of the way in which the system was configured.

The UN has asked us to help them with this ongoing process of imaging. We are having discussions now with AusAID to see whether they are going to be in a position to fund that. They have given us positive indications, subject to the fact that the parameters need to be specified in detail. To take it further, we have also said to the UN that they need to think rather carefully about what sort of use they want to make of these systems so that when they are set up they will most effectively meet their needs. That is with them at the moment and we are expecting to hear back from them reasonably soon. We will be having discussions with some of the senior staff at the electoral component of UNAMET, who are either back in Australia now or will be back in the next day or two.

Senator BROWNHILL—I guess you do not have a roll cleanse, do you. Is there a double-check there now if somebody wanted to do a roll cleanse? Could the UN now go back to a place of habitation? That would be the difficult to find, would it?

Mr Gray—We ourselves are not conducting any roll cleansing.

Senator BROWNHILL—No, I am not suggesting that you do but I am asking how your data could be used. Could it go back to now doing a role cleanse, if you like, to find out whether so-and-so was living at X? There would not be street addresses, I guess, like there would be in a city.

Mr Maley—It varies from place to place. Smaller hamlets are not going to have street addresses. Dili may well have had street addresses at the time things were recorded. Part of the problem is to try and come up with a format for your address fields on a form that reflects the different ways in which addresses are recorded in different parts of the territory. But potentially, yes. Certainly the first thing that struck us is that these data are critically important in trying to reconcile the population as it now exists with what was there beforehand to come up with an assessment of what happened in the meantime. I have seen all the efforts that had to be made in Cambodia to try and work out the implications of the Khmer Rouge period for the population. Again, not having an agreed benchmark from which you can necessarily proceed accurately has been always a difficult thing.

Senator BROWNHILL—To find out who is missing.

Mr Maley—That is right. That is something they have in East Timor because of this data, and that makes it critically important. The thing that the UN has to focus on at the moment is that you are not just talking about looking at things for electoral purposes or for human rights purposes. Potentially this data could be used for almost every different element of the administration that is going in on a transitional basis and then developing into

government structures for Timor in the long run. So it may well be that it is not just the Electoral Assistance Division that looks at what use can be made of these data but also the Department of Humanitarian Affairs, UN Development Program and lots of up other different areas. I think that may be why we are still waiting for feedback from them on exactly how they want to use this data.

Senator BROWNHILL—I think that is why it is so important. You are not here being asked questions about the conduct of the referendum as much as being asked about the ability of your registrations to be used in future, which I think is going to have significant importance.

CHAIR—I have a couple of further questions. Can you give us a copy of the form that was used to collect the data? That would be interesting for us.

Mr Gray—Yes, we can.

CHAIR—How much of what was on the form was actually responded to? In the end did you, say, get to question 23 and say, ‘That is really not relevant to this’ and not waste time in the registration process? Then how much of that data that you had on the form was actually captured on your computer system?

Mr Maley—I can answer part of that now. The form was divided into a number of different parts, and it was part 1 of the form that was captured on the computer system. The subsequent data was not. We will provide a copy for you.

CHAIR—Right. Finally, did your registration collection in any way indicate the number of children or dependants that the person who was registering had?

Mr Maley—No, it did not.

CHAIR—So it was purely and simply those who were eligible to register. Do we know how many did not register?

Mr Maley—No, there is really no way of telling that with any degree of accuracy because the criteria which qualified people to register were not really commensurate with any other official statistics which existed, because of, say, the fact that an Indonesian soldier who was married to an East Timorese or to someone born in East Timor was himself or herself qualified to vote by virtue of the definition of what it was to be East Timorese in the Modalities Agreement.

CHAIR—Did your registration process look at the occupation of the person registering?

Mr Maley—I cannot remember off the top of my head. I will provide a copy of that form—

CHAIR—The reason I ask that is that I do know there were some East Timorese who were members of the TNI, and I am just wondering whether you are able to identify that element within your records.

Mr Maley—From memory, it did not give that information. We understand that the hard copies of the forms have been retained by the UN—not without considerable difficulty, given the pressures that UNAMET was under at the end of the process—and that they are in safe storage. If an imaging process proceeds, it will be of those particular forms.

CHAIR—If you can provide us with a copy of the form, it would be interesting for us to see.

Senator BROWNHILL—Of the number of people who registered, how many people did not vote? I know these figures would be available, but I have not come across them.

Mr Maley—It was a very high turnout. Again, I can check the figures for you—

Senator BROWNHILL—Was it 98 per cent?

Mr Maley—It was certainly of that order. It was over 98 per cent in Australia. The official statistics that I have seen gave a figure for votes accepting or rejecting autonomy but did not list informal votes, which means you cannot get an exact turnout figure. Even then, the sum of yes and no was a very high percentage—something like 97 of 98 per cent. It was an extraordinarily high turnout.

Senator BROWNHILL—I guess you can say that some who voted for autonomy might not be dead but might have decided they wanted to go back to Indonesia. I do not even want a reply to that, but I am just thinking aloud on how important the job that you did was and that it was something that did not finish on the day of the vote but is going to be very important for a long time. Thank you.

CHAIR—Thank you very much, Mr Gray and Mr Maley. We are grateful for your evidence here today. Once again, congratulations to the AEC for the work that it did. Undoubtedly it contributed greatly to the success of the ballot process. We look forward to the extra information that you will provide to us. Thank you.

Committee adjourned at 3.58 p.m.

