



Australia's overseas development assistance program and the Montara oil spill

**Environmental degradation in East Nusa Tenggara,
Indonesia**

Submission to Senate Standing Committee on Foreign Affairs, Defence and Trade,
Inquiry into Australia's overseas aid and development assistance program

3 February 2014



CONTENTS

Who we are	2
Introduction.....	3
A. Economic loss in East Nusa Tenggara	4
B. Fieldwork findings.....	5
C. Programs previously supported are dying	7
D. NTT Relevance to Australia/Indonesia Partnership Strategy.....	7
E. Meeting the MDGs in East Nusa Tenggara	8
F. Illegal foreign fishing.....	10
G. Cross-section with other initiatives.....	12
H. Action required.....	14
I. Good economic sense.....	16
Conclusion.....	17

Cover image, Australian Lawyers Alliance, Seaweed farm afflicted by disease, Kupang Regency, West Timor (August 2013).

WHO WE ARE

The Australian Lawyers Alliance is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The Australian Lawyers Alliance started in 1994 as the Australian Plaintiff Lawyers Association, when a small group of personal injury lawyers decided to pool their knowledge and resources to secure better outcomes for their clients – victims of negligence.

We are represented in every state and territory in Australia. More information about us is available on our website.¹



INTRODUCTION

The Australian Lawyers Alliance welcomes the opportunity to provide a submission to the Senate Foreign Affairs and Trade References Committee in its inquiry into Australia's overseas aid and development assistance program.

We note the focus of the Inquiry on the Government's \$4.5 billion cut to international development assistance, with particular reference to:

- a. Australia's ability to deliver aid against stated policy objectives and international commitments;
- b. Australia's ability to maintain its international development priorities, including sectoral, regional, bilateral and multilateral international relationships;
- c. the integration of AusAID into the Department of Foreign Affairs and Trade and the freeze in international development assistance funding;
- d. any unintended consequences of these changes; and
- e. any other related matters.

While we note the focus on this Inquiry in light of the cuts to international development assistance, this submission does not pertain to address the consequential impact to Australia's aid program, which we believe will be substantial.

Instead, our submission aims to highlight the shortfalls and challenges of the partnership between Australia and Indonesia, that are posed by the ongoing reported impacts of the Montara oil spill in the province of East Nusa Tenggara, Indonesia.

Any cuts to assistance provided to the region will exacerbate already outstanding inequalities and challenges posed to the partnership, of which we wish to make the Committee aware.

Our submission will address for the most part, terms of reference a) and b) and e), in that:

- Australia's ability to deliver aid against stated policy objectives within the *Australia Indonesia Partnership Country Strategy 2008 – 2013* has been hindered by ongoing environmental and economic impacts in East Nusa Tenggara.
- This continues to impact upon bilateral relationships with Indonesia, and raises opportunity for further engagement with provincial governments.



- Australia's ability to deliver aid affectively in the region continues to be affected by Australia's aggressive maritime policy.

We raise particular concern as to the dramatic discrepancy between total overseas development assistance ('ODA') spending in Indonesia, and total economic loss reported in East Nusa Tenggara as a result of the Montara oil spill.

We believe that the merging of AusAID into the Department of Foreign Affairs and Trade presents an opportunity for:

- further understanding of the connection of the systemic issues;
- proactivity in the role of the Australian government in liaising with provincial governments affected; and
- mandating further action on the part of the company responsible to investigate and remediate the damage.

As can be seen, the Australian aid program in and of itself, is insufficient to investigate and remediate the losses in the area.

The Australian Lawyers Alliance submits that a small amount of strategic expenditure (\$5- 8 million)² could be deployed to fund a full, independent study of the affected areas, in partnership with the provincial governments of East Nusa Tenggara and those affected. (Further comment is provided in Part H - Action required).

We submit that the Department of Foreign Affairs and Trade must liaise with other government departments to work towards mandating further action in this area.

A. ECONOMIC LOSS IN EAST NUSA TENGGARA

The Australian Lawyers Alliance submits that the province of East Nusa Tenggara, Indonesia (Nusa Tenggara Timur, 'NTT') is reported to have sustained severe and significant impacts following the Montara oil spill, which occurred in Australian waters of the Timor Sea in 2009.

Significant economic loss in the region was noted by Dr Mukhtasor, Director of Indonesia's Centre for Energy and Environmental Studies in Jakarta, following a 9 month study. In 2012, a team led by Dr Mukhtasor produced an interim report on the damage. The report found that **economic loss of more than AU\$1.5 billion per year** has been sustained across the region.³



We raise concern as DFAT notes that its 2012/13 total ODA expenditure⁴ in Indonesia was \$541.6 million. In 2013/14, proposed expenditure is cited to be \$583.6 million.⁵

We note that there appears to be an increase in bilateral assistance in the Australia-Indonesia partnership,⁶ however note that this cannot go far enough to remedy an issue that is so significant in scope.

The amount of total proposed ODA proposed to be spread over the entire nation of Indonesia is not equivalent to even 40 per cent of the economic loss which is being felt every year in the province of East Nusa Tenggara.

B. FIELDWORK FINDINGS

In August 2013, the Australian Lawyers Alliance travelled to Kupang, West Timor to meet with communities.

We were hosted by the West Timor Care Foundation ('WTCF'), an Indonesian non-government organisation based in Kupang. WTCF was the only Indonesian organisation to provide a submission to the Montara Commission of Inquiry.

Seaweed farming and fishing communities in West Timor claim to have been significantly affected as a result of the spill.

Fishing

In one fishing village in Kupang, West Timor, one third of the community left in the aftermath of the Montara oil spill, as villagers were unable to catch fish in their old fishing grounds anymore.

Many communities have travelled to Kalimantan to try to find alternative work. For those left behind, they must travel two days (instead of 6 hours) to fishing grounds east of East Timor. This exacerbates losses, as the costs of fuel are much greater and they are unable to travel as frequently.

Seaweed

In one village based on the West Timorese coast, a community consultation of up to 100 people met with us, including villagers, provincial government officials and local police. The village was fairly well off before the spill, with brightly painted houses, well paved roads and a thriving seaweed industry.



Before the spill, from 2007 to 2009, annual harvests of seaweed in the village ranged between 400 to 500 tonnes. From 2010, this decreased to 10 tonnes; in 2011 this decreased to 5 tonnes, and continued down to just three tonnes in 2012.

The value of the annual production of the village pre-spill was US\$625,000.

It has now dropped to less than US\$3,600: **less than 1 per cent of their previous income.**

The value of the seaweed being produced has now also significantly reduced: seaweed used to be sold for 12,000 rupiah (AU\$1.20)/kg, and due to a reduction in quality as well as quantity, is now sold for 7,000 rupiah (AU\$0.71)/kg.

The villagers say that the seaweed is sick, and that this occurred in the months following after the Montara oil spill. (The cover image of this submission was taken in this village.)

At the community consultation, similar reductions in production were reported to us from local officials and other villagers.

We believe that these figures are potentially the most up to date available to the Australian government at this time.

These reductions have been reported across the province, including in Kupang Harbour and the village of Nifuleo, which both had about 250 farmers. The village of Tesabela, which had approximately 350 farmers, has also suffered significant reductions, along with other social and health impacts.

Reductions in harvest were also significant on the island of Semau, which had an industry three times the size of the village we visited, and also on Lembata Island, which lies 190 kilometres north of Kupang.⁷

We refer the Committee to the two submissions of the WTCF which were provided to the Montara Commission of Inquiry.⁸ These submissions identified the concerns of the WTCF in NTT in the immediate aftermath of the spill, and note just some of the communities in the region that were experiencing reduced fish catch and seaweed farm harvests in 2010.

Further research is required to establish both the quantum of damage, and the extent of geographical area affected.

The Montara Commission of Inquiry did not elaborate on the issues raised by the



West Timor Care Foundation, however noted that:

‘The evidence before the Inquiry indicated that hydrocarbons did enter Indonesian and Timor Leste waters to a significant degree.’⁹

Provincial governments in the region continue to be concerned about the communities within their jurisdictions, and are keen to meet with representatives of the Australian government and testify further as to their concerns.

C. PROGRAMS PREVIOUSLY SUPPORTED ARE DYING

We note that seaweed farming was encouraged across the province of East Nusa Tenggara by the Australian government’s aid program.

In the village of So’ao, a village 20 minutes boat ride from the village of Pepela, Rote Island; a seaweed farm commenced in 2001. This seaweed farm, which was supported by a grant of Rp.27M (A\$3200) from the Australian Embassy’s Direct Aid Program, made a profit of Rp.265M (A\$31,300) in 2008.¹⁰

Following the leak from the Montara wellhead, profits from the seaweed farm dropped by about 80 per cent to just over Rp.58 million (A\$6850).

Brooke Nolan and Phillip Vincent noted in their 2010 article in *Inside Indonesia* that:

‘This economic loss had repercussions for the education, health and standard of living of So’ao families. While the villagers’ children were still enrolled in school, many people reported that they wouldn’t be able to continue paying for their education if the profits from seaweed farming did not pick up again.’¹¹

We are not aware as to the current state of the seaweed farm in So’ao.

D. NTT RELEVANCE TO INDONESIA/AUSTRALIA PARTNERSHIP STRATEGY

AusAID noted in its *Australia Indonesia Partnership Country Strategy 2008 – 2013* (‘AIP’) that NTT rated 60.3 on the Human Development Index, contrasting with

Indonesia on average, as 71.4.¹²

We note that NTT was recognised as one of the five priority provinces for geographic focus in the AIP. The five priority provinces have low development indicators and are among the poorest in Indonesia.¹³

We submit that failure to acknowledge and address substantial reports of damage in the region will undermine the potential to work towards poverty alleviation and sustainable development.

We submit that failure to acknowledge and address reports of damage will also perpetuate the cycle of poverty for many people.

We note that Australia intends to assist 'around 300,000 poor farmers [in Indonesia] to increase their incomes by at least 30 per cent by 2017.'¹⁴

Reversely, we note that thousands of seaweed farmers and fishermen across the East Nusa Tenggara region have experienced a direct reduction of their livelihoods in the months and years following the Montara oil spill. The region supports some 27,000 seaweed farmers, many of whom have experienced devastation of their harvests.

In 2011 in an article in the *Jakarta Globe*, the Jakarta government noted that 'there was more scope to boost seaweed production to capitalize on high global demand, which would in turn not only benefit Indonesian fishermen but the economy as a whole'¹⁵. North Sulawesi, Maluku, East Nusa Tenggara, Central Sulawesi and Gorontalo provinces were considered to be key to developing the country's seaweed industry.

To date, there has not been a holistic assessment addressing causation and the disease affecting seaweed throughout NTT, or the reduced fish stocks in fishing grounds south of Timor.

E. MEETING THE MDGS IN EAST NUSA TENGGARA

We note that progress has been made towards fulfilling the Millennium Development Goals ('MDGs') in Indonesia, especially meeting targets surrounding the first four goals: eradicating extreme hunger and poverty; achieving universal primary education; promoting gender equality and empowering women; and reducing child mortality.



However, we submit that reported impacts of the Montara oil spill may have undone progress towards the fulfilment of the MDGs in NTT.

Eradicate extreme hunger and poverty

We note that WTCF received reports of severe food poisoning and deaths in the weeks and months directly following the spill after villagers caught and ate seafood.

WTCF reported to the Australian Lawyers Alliance that soon after the spill, twelve fishermen from one village went fishing at sea, and cooked the fish that they caught. Eleven men ate the fish. These men became very ill. The local mayor arranged for a boat to take the men to hospital on a nearby island. Five men died on board the boat before it reached the shore.

In some areas, WTCF has reported that communities were starving as they were afraid to eat fish from the sea.

WTCF also reported to the Australian Lawyers Alliance incidences of fatal skin conditions impacting upon fishermen. Widows and children have been left behind destitute.

Achieving universal primary education

We note that 'between 2006 and 2011, Australia has built or extended over 2,000 junior secondary schools, creating around 330,000 new school places, in some of Indonesia's poorest and most remote areas.'¹⁶

The Australian Lawyers Alliance submit that it has been reported to us directly by communities that children are being withdrawn from school across East Nusa Tenggara province, from a primary to a secondary level, as a result of the significant economic loss following the Montara oil spill.

We note that the registration fees for students are prohibitive for families to afford.

While some government schools are free, we have received report that some are full and therefore rendered inaccessible for poorer families who do not have the requisite connections.

Additional educational costs such as transport, uniforms, textbooks are also in excess of what some families are able to afford.

We submit that the future of the next generation in NTT presents a window of opportunity that every year, is beginning to close.

There have also been anecdotal reports made to WTCF that minors have begun

working in red light areas in Kupang, West Timor as a means to support their families following the severe economic loss sustained.

Maternal health

We note that DFAT cites that NTT is 'one of Indonesia's poorest provinces', with programs currently supporting maternal and neonatal health in the region:

'In 2011-12, the program trained more than 5,365 health care workers, which helped manage 4,830 newborn complications, in community health centres. This has helped save the lives of many women and babies.'¹⁷

We applaud the Australian government for its investment into the lives of children and future mothers in NTT.

However, we continue to have concerns regarding the long term health impacts on NTT residents of the use of dispersants Corexit 9500 and Corexit 97527A, that were used to disperse the spill. We note that these dispersants were used within the BP Gulf of Mexico spill and have been implicated in a number of health conditions, in both the short and long term.

Environmental sustainability

We raise concern regarding the ongoing environmental, social and economic impacts of any environmental degradation that has occurred.

Environmental sustainability in the NTT is a near impossibility without an assessment of the extenuating damage.

We note that overfishing and low fish stocks is an issue already on the Indonesian national agenda.

F. ILLEGAL FOREIGN FISHING

We note that the AIP states that:

'Australia is also committed to working closely with Indonesia on a long-term solution to illegal fishing in Australia's northern waters and more broadly in the region.

This will be achieved through programs addressing poverty, increasing broad-based growth, and stimulating employment, including in fishing

communities.¹⁸

In our fieldwork in Kupang, we met with persons that had been aboard boats that were subsequently burned by the Australian navy as a result of being in Australian waters while fishing. Persons were returned to Indonesia with no compensation.

Burning fishing boats and subsequently destroying the income sourcing asset of breadwinners of the family, is not a sustainable solution.

Destruction of boats leads to mounting debts.

In addition, every day that the person is being detained in Australia, another day passes where their families struggle to make ends meet. The families are in many instances, growing in debt to their extended families or to their debtors.

In one village in West Timor, over 30 of 120 boats were destroyed by the Australian government.

As a result, the children of these families are in many cases, no longer attending school as the cost is simply too high.

We believe that in many cases, the heavy debt burden being borne by such communities may be related to subsequent recruitment of Indonesian crew for boats transporting asylum seekers to Australia.

We submit that many of the ongoing problems sustained in NTT, and in Australia's maritime policy, also derive from a failure to acknowledge the traditional rights of Indonesian fishermen whose communities fished the waters of the Timor Sea for centuries.

The expansion of Australia's Exclusive Economic Zone ('EEZ') has been referred to as *mare nullius*, an ocean-based denial of traditional rights, the *terra nullius* of the sea.¹⁹

We submit that there is a need for a review of Australia's policy regarding the way in which Indonesian fishermen are treated in and near Australian waters.

At present, a village on Rote Island is known colloquially as 'the village of widows', as so many fishermen husbands have died at sea. To fish within the 1974 Memorandum of Understanding Box ('MOU Box') (which is not physically defined in any manner at sea) persons are not allowed to use GPS equipment.

Thus, we also question whether the intent of the offence of unlawful fishing in Australian waters can adequately be satisfied if persons fishing in or near the

Australian Fishing Zone do not know their precise co-ordinates.

We note that in the case of *Muslimin v The Queen* [2010] HCA 7, an Indonesian fisherman from a village in NTT was detained for two years and subsequently acquitted by the High Court of Australia. A few years later, ABC's *Background Briefing* Program reported that he had subsequently been charged with people smuggling.²⁰

We submit that Australian policy regarding unlawful fishing is perpetuating a cycle of poverty and that the policy as a whole should be reviewed, with impact on human rights underpinning the framework of the review.

This would include a review of:

- manner of questioning at sea, such as bilingual review of communication methods and efficacy;
- penalties, including destruction of boats, sentencing, deportation;
- treatment of minors;
- alternative fishing licensing schemes, to be determined in partnership between the NTT government and Australian government;
- the potential connection between destruction of property for unlawful fishing and committing people smuggling offences; and
- review of manner of data collection by geographical region of persons charged with unlawful fishing and/or people smuggling offences.

This would also include, we submit, a review of the MOU Box, including:

- areas to fish; and
- use of equipment, such as GPS equipment and communication technology.

G. CROSS-SECTION WITH OTHER INITIATIVES

We note that the AIP addresses a number of other development initiatives that continue to be hindered if the issue of environmental degradation is not addressed, such as micro-finance, decentralisation, access to justice, and environment, safety

and peace.

Micro-finance

We note that the AIP states that:

‘The AIP will continue working with other donors, especially the International Finance Corporation (IFC), to strengthen the management and transparency of micro-finance institutions and improve the enabling environment for enterprise development. Focus will include improving the access of rural communities to finance, *particularly in priority provinces.*’

We question whether the reported impacts in NTT have had an impact on communities’ abilities to repay micro-financing loans, and whether extension of access to finance for rural communities in NTT will have significant impact without environmental remediation.

Decentralisation

The AIP notes the challenges faced by provincial governments with decentralisation:

‘Under decentralisation, local governments struggle to find, fund and successfully manage the human resources required to implement their mandate.’²¹

We submit that this is especially so for local governments in NTT who have lost taxation revenue as a result of significant economic loss sustained within their jurisdictions.

Access to justice

The AIP states that ‘the AIP will seek to improve access to justice for poor and marginalised communities.’²²

We submit that the aforementioned review of the policing of unlawful fishing on a human rights basis is necessary.

Environment, safety and peace

We note that the AIP identifies that ‘Indonesia’s security, stability and economic development are intertwined’²³.

We respectfully note that the environment is another factor that remains intertwined.



While we note that Australia was involved in the response to the tsunami and the Yogyakarta earthquake, we submit that more needs to be done in negotiating responses to crises that are man-made and are transboundary in nature.

We note that this is a view shared by Indonesia. In September 2010, Indonesia put forth to the 97th session of the International Maritime Organisation Legal Committee a proposal to 'add a new work programme to address liability and compensation for oil pollution damage resulting from offshore oil exploration and exploitation'.²⁴ This was a proposal that the Committee recommended should be developed further by interested states and organisations, noting that 'the relevant instruments do not currently cover pollution damage caused by offshore exploration and exploitation activities'.²⁵

We note the AIP which identifies that:

'Australia recognises... that responses to large-scale disasters must be coordinated and will work closely with other organisations to develop a more coordinated external response to humanitarian needs and emergencies.

Australia aims to provide timely and effective responses to crises, build capacity of Indonesian partners in disaster preparedness and response, improve risk analysis and strengthen contingency planning.'²⁶

We believe that a similar recognition must be extended to cases of transboundary damage in the Timor Sea.

Only then, can Australia truly be an 'effective and reliable partner in disaster response'.

H. ACTION REQUIRED

The Australian Lawyers Alliance submits that DFAT must take action to ensure that the affected livelihoods of individuals in NTT is given due attention.

The Australian Lawyers Alliance submits that a small amount of strategic expenditure (\$5- 8 million)²⁷ could be deployed to fund a full, independent study of the affected areas, in partnership with the provincial governments of East Nusa Tenggara and those affected.

The funding of this initiative would alleviate the current pressure on Australia's aid program and fulfilment of AIP objectives.

This strategic expenditure could be utilised to scientifically define the connection between the reported damage in NTT and the Montara oil spill.

Following this, it would be appropriate for pressure to be borne on the company responsible to provide funding to ameliorate the damage, and instead place the obligation, where it belongs, on the polluting company, in keeping with contemporary expectations of corporate social responsibility.

The Australian Lawyers Alliance note that the Montara Commission of Inquiry found that:

'The evidence before the Inquiry indicated that hydrocarbons did enter Indonesian and Timor Leste waters to a significant degree.'²⁸

Two independent studies funded by PTTEP AA's environmental monitoring program found that 'no dispersed oil reached the Australian mainland or Indonesian coast.'²⁹ These studies relied on trajectory modelling and did not collect any samples from the Indonesian coastline.

Furthermore, it appears to us at this stage that this study:

- Did not appear to use data for trajectory modelling beyond the November 2009 period;
- Did not appear to factor in the role that may have been played by cyclones that swept through the Timor Sea during the summer of 2009-2010.

We believe that studies that claim that no oil reached the Indonesian coastline can no longer be relied upon in the face of the evidence that lies in East Nusa Tenggara, Indonesia.

We raise concern that:

- No further effort was made following the Montara Commission of Inquiry to examine findings that hydrocarbons entered the waters of Indonesia and Timor Leste 'to a significant degree';
- No further effort has been dedicated to assisting Indonesian communities whose livelihoods have been significantly affected by reduced fish stocks and dead seaweed farms;
- While humanitarian assistance is being extended to NTT in a targeted

manner to fulfil the MDGs, none has been targeted at remediation of the environment or examination of the extent of the damage, despite Australia's commitment to assist in cases of disaster response;

- There has been no recognition by the Australian government of the damage sustained in Indonesian communities;
- The Australian aid program in NTT will be ineffectual if root causes of poverty, such as environmental degradation as a result of oil and dispersant contamination, have not been addressed;
- There has been no change regarding how Australia and Indonesia will work together in future instances of transboundary damage to ensure protection of the livelihoods and communities who lie most exposed to potential opportunities of further damage.

I. GOOD ECONOMIC SENSE

We submit that determining sustainable and stronger solutions regarding transboundary damage also makes good economic sense in terms of Australia's economy as well as aid program.

In 2011, the Australian government delivered its *Regulation Impact Statement, Government Response to the Montara Commission of Inquiry*. The statement acknowledged that Australia is one of the top five producers of the world's key mineral and energy commodities.³⁰

The statement acknowledged that historically, about 95 per cent of Australia's petroleum production has come from our offshore basins.³¹

We raise concern about the potential for future damage to occur in Australia's offshore basins. In the Gulf of Mexico in the United States, prevailing winds, severe storms and hurricanes, have wreaked damage on the offshore gas industry.

We note the submissions of Kimberley Whale Watching to the Montara Commission of Inquiry, which emphasised that:

'In 2005, Hurricanes Katrina and Rita damaged 457 pipelines and destroyed 113 oil platforms in the Gulf of Mexico. The category 5 storm caused 124 spills totalling over 17,700 barrels of petroleum products.



The Ashmore Cartier, Bonaparte Basin and Browse Basin petroleum development areas also lie in a region of severe intensity storms.

The risk of damage to rig and production platforms is likely to increase as more infrastructure is put in place and the severity of storms increases.¹³²

The potential for further damage to Australia's neighbours in the region that are supported by ODA must be considered.

Australia would do well to learn from the approach of the United States following the BP Deepwater Horizon spill, including noting the proactivity of President Barack Obama, who ensured that BP paid appropriate amounts to ensure investigation and environmental monitoring were undertaken and a compensation fund was established.

CONCLUSION

We are happy to elaborate upon any of the issues that we have raised within this submission in the course of the Inquiry.

We thank the Committee for its service to the Australian public.

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¹ Australian Lawyers Alliance (2014) www.lawyersalliance.com.au

² This figure has been cited by international experts.

³ ABC News, 'Australian oil disaster 'costing Indonesians billions'', Thursday 26 July 2012. Accessed at <http://www.abc.net.au/news/2012-07-26/australian-oil-disaster-costing-indonesians-billions/4155474>

⁴ This includes DFAT's bilateral program. In 2014, the Government announced that the proposed bilateral expenditure in Indonesia will extend from \$484.7 million (2013-14) to \$532.4 million (2014-15), see DFAT, 'Five billion dollar aid budget to focus on the region', last reviewed 17 January 2014. <http://aid.dfat.gov.au/Publications/Documents/program-allocations.pdf>

⁵ Australian Government, Department of Foreign Affairs and Trade, *Indonesia, 'How we are helping'* <http://aid.dfat.gov.au/countries/eastasia/indonesia/Pages/home.aspx> last reviewed 18 January 2014, accessed 3 February 2014.

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⁷ Australian Lawyers Alliance, Notes from fieldwork findings, West Timor, August 2013.

⁸ WTCF, *Submission to the Commission of Inquiry into the Uncontrolled Release of Oil and Gas from the Montara Wellhead Platform*, (11 May 2010), accessible at <http://www.montarainquiry.gov.au/downloads/submissions/Final%20Submission.pdf>; WTCF, *Submission by the West Timor Care Foundation, Kupang (West Timor), Republic of Indonesia, to the Draft Government Response to the Report of the Montara Commission of*

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http://www3.intret.ret.gov.au/Department/Documents/MIR/11_West_Timor_Care_Foundation.pdf

⁹ Report of the Montara Commission of Inquiry (June 2010) at 26.

¹⁰ Brooke Nolan and Phillip Vincent, 'Australian law on Rote?' (2010) 102 *Inside Indonesia*, Oct-Dec 2010. Accessed 4 February 2014 at <http://www.insideindonesia.org/weekly-articles/australian-law-on-rote>

¹¹ *Ibid.*

¹² AusAID, Commonwealth of Australia, *Australia Indonesia Partnership Strategy 2008 – 2013*, (2008) at 3. Accessed 5 February 2014 at

http://aid.dfat.gov.au/Publications/Documents/aip_strat_2008-13_english.pdf

¹³ In this, NTT is cited alongside Papua, West Papua, Nusa Tenggara Barat (NTB) and Nanggroe Aceh Darussalam (Aceh). See AusAID, above n 11 at 6.

¹⁴ DFAT, *Indonesia, Economic Development*, accessed 5 February 2014 at

<http://aid.dfat.gov.au/countries/eastasia/indonesia/Pages/home.aspx>

¹⁵ 'Minister casts his nets at growing appetite for seaweed,' *the Jakarta Globe*, 27 February 2011. Accessed 4 February 2014 at <http://www.thejakartaglobe.com/archive/minister-casts-his-nets-at-rising-appetite-for-seaweed/425490/>

¹⁶ Australian Government, Department of Foreign Affairs and Trade, *Indonesia, Education* <http://aid.dfat.gov.au/countries/eastasia/indonesia/Pages/home.aspx> last reviewed 18 January 2014, accessed 3 February 2014.

¹⁷ Australian Government, Department of Foreign Affairs and Trade, *Indonesia, Health* <http://aid.dfat.gov.au/countries/eastasia/indonesia/Pages/home.aspx> last reviewed 18 January 2014, accessed 3 February 2014.

¹⁸ AusAID, above n 11, at 17.

¹⁹ Ruth Balint, *Troubled Waters, Borders, Boundaries and Possession in the Timor Sea*, (2005).

²⁰ ABC Radio National, Background Briefing, 'Casualties in the war on people smuggling', 30 October 2011. Accessed <http://www.abc.net.au/rn/backgroundbriefing/stories/2011/3347689.htm>

²¹ AusAID, above n 11, at 12.

²² *Ibid.*, 15.

²³ *Ibid.*, 16.

²⁴ United Nations Environment Programme, Mediterranean Action Plan, 1st Offshore Protocol Working Group Meeting, Valetta, Malta 13-14 June 2013, 'A Legal Discussion on Civil Liability for Oil Pollution Damage Resulting from Offshore Oil Rigs in the Light of the Recent Deepwater Horizon Incident,' at 31. Accessed 5 February 2014 at [http://www.rempec.org/admin/store/wyswigimg/file/News/Forthcoming%20Meetings/Offshore%20Protocol%20WG%20\(Malta,%2013-14%20June%202013/WG%20384-%20INF.6%20-%20IMLI%20Doc%20-%20Dr%20Sciculna%20%20&%20%20Dr_%20Guterrez%20-%20E.pdf](http://www.rempec.org/admin/store/wyswigimg/file/News/Forthcoming%20Meetings/Offshore%20Protocol%20WG%20(Malta,%2013-14%20June%202013/WG%20384-%20INF.6%20-%20IMLI%20Doc%20-%20Dr%20Sciculna%20%20&%20%20Dr_%20Guterrez%20-%20E.pdf)

²⁵ International Maritime Organisation, 'Legal Committee (LEG) - 97th Session, 15 - 19 November 2010, IMO Legal Committee supports follow-up to Deepwater Horizon and Montara' *Media release*, 19 November 2010. Accessed 5 February 2014 at <http://www.imo.org/MediaCentre/MeetingSummaries/Legal/Pages/LEG-97th-Session.aspx>

²⁶ AusAID, above n 11, at 16.

²⁷ This figure has been cited by international experts.

²⁸ Report of the Montara Commission of Inquiry (June 2010) at 26.

²⁹ PTTEP Australasia, *Montara Environmental Planning Program, Report of Research, Edition 2* (September 2013) at 30, 31.



³⁰ Australian Government, Regulation Impact Statement, Government Response to the Montara Commission of Inquiry (April 2011) at 3. Accessed at http://ris.finance.gov.au/files/2011/06/Montara_RIS.pdf

³¹ Ibid.

³² Kimberley Whale Watching, *Submission to the Montara Platform Uncontrolled Hydrocarbon Leak*, (22 December 2009) at 13. Accessed at <http://www.montarainquiry.gov.au/downloads/SUBM.5002.0001.0001.pdf>