AUSTRALIAN MARITIME OFFICERS UNION
ABN: 56 181 230 800
OFFSHORE DIVISION

Head Office: 5th Floor Labor Council Building 377 Sussex Street, Sydney NSW
Postal Address: PO Box 407 Haymarket NSW 1240 ● Telephone: (02) 9264 2388 ● Telex AA20738
● Facsimile: (02) 9267 4766 ● E-Mail: amou@amou.com.au
Fremantle Office: 28 Mouat Street Fremantle WA ● Postal Address: PO Box 568 Fremantle WA 6160
Telephone: (08) 9335 3535 ● Mobile: 0417 951 787 ● Facsimile: (08) 9335 1990 ● E-Mail: wa@amou.com.au

The Secretary
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Via email jsct@aph.gov.au

Dear Committee,

Timor Sea Treaty

By way of introduction the Australian Maritime Officers Union represents the interests of Australian Deck Officers engaged on vessels in the Offshore Oil and Gas sector. To this extent we are acutely aware of the developing Timor Sea hydrocarbon deposits and their commercial exploitation.

We write to the committee for the purposes of highlighting our concerns in regard to the practical application of the treaty, its effect on our constituency and the interests of both the Australian and East Timorese economies. Specifically we wish to provide comment on Articles 10, 11, 12 and 17 of the Treaty.

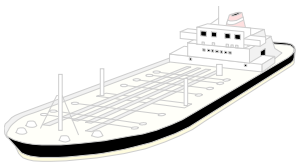
As you are aware Australia has a bold and strategic exclusive economic zone that has assisted the country to provide security and certainty to the offshore petroleum exploration market, and as a spin off has developed a modest, highly skilled workforce in the hydrocarbons industry and more specifically in the marine sector, which supports the exploration and production phases.

Under the Timor Gap Treaty with Indonesia this resulted in an employment scenario that nominally applied a 50:50 ratio of Australians to Indonesians.

The reality of this employment preference clause was that Australia's maritime skill base made it practical to engage in most supply, exploration and survey vessel scenarios a workforce that was 100% Australian. On the floating production facilities this workforce includes a mix of the two nationalities. Australian workers in this industry are employed under Australian registered industrial agreements and pay income tax exclusively to Australia.

Contacts:

Director:	Fred Ross	email: fred@amou.com.au	mobile: 0417 654 201
Industrial Officer:	Brian Mason	email: brian@amou.com.au	mobile: 0402 992 584
Industrial Officer:	Brad George	email: wa@amou.com.au	mobile: 0417 951 787



The proposed Treaty with East Timor and the operation of the Exchange of Notes has already had a drastic impact on the employment of Australians, and has cut Australia's income tax whilst so far not providing a single job for East Timorese seafarers.

Article 11 of the Treaty introduces an East Timorese employment preference clause. The OHS requirement in that clause however effectively removes the ability for any East Timorese to work in the JPDA because of the current lack of training, education and previous employment experience. So whilst a noble intent, the Article effectively excludes the East Timorese from any of the current projects.

Under the previous Timor Gap Treaty the employment opportunities would have been transferred to Australian's when the Indonesians were unable to fulfil their quota. In the Bayu Undan construction there are no Australians working on the vessels supporting the platform construction. The vessels are currently engage European and New Zealand officers and Philippine and Indonesian seaman.

The drilling rig in the same project employs predominately Australian workers and is supported by three Australian crewed support/supply vessels. The decision to employ Australians on this part of the project relates directly to the need to access Australian supply bases and materials to support the drilling programme. The decision to avoid employing Australians on the construction section of the project is a commercial based one that exploits the failure in the current treaty to maintain a 50:50 employment preference scenario. The effect of that decision is a decreased skills transfer to Australia and East Timor, loss of income tax to both countries and no recognisable 3rd party presence providing worker support on issues of health, safety, conditions and environmental protection.

This Article should clearly give Australians and East Timorese employment preference. By matching the preference ratio to the taxation ratio this will provide an opportunity for Australia to maintain employment whilst training the East Timorese to take over the crewing over a period of time.

Under Article 10 – Marine Environment, the Treaty does not refer to any appropriate legislation on which standards should be based eg Submerged Petroleum Lands Act or to international conventions to which Australia is a signatory eg MARPOL. Australian mariners and their companies operate to these standards throughout our waters. Non-Australian mariners and companies do not have the same understanding or consideration of these matters in our backyard. Further there is no Government or NGO with the resources to ensure that the intentions of Article 10 are complied with.

This Article should clearly reference Australian legislation including the Navigation Act and international conventions including MARPOL.

Under Article 12 the previous Treaty essentially deferred to the operation of Australian standards. The simple question that the committee must ask is how could Australia subscribe to a treaty in which it agrees that a country

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Industrial Officer: Brad George email: wa@amou.com.au mobile: 0417 951 787

without OSH legislation and an authority without enough resources should develop the standards for JPDA OSH? Secondly how could Australia agree to have standards in the Bayu Undan that may be less stringent and definitely less enforceable than those operating in Bass Strait?

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

Finally Article 17 – Petroleum Industry Vessels, provides a number of statements but actually delivers nothing. Firstly all vessels working in Australian and international waters are required to comply with the manning certificates (crewing), operating standards and safety rules of their flag state. Where that flag state is a signatory to the IMO Conventions then these apply as well. Secondly, not a single vessel operating in the Bayu Undan is flagged in Australia or East Timor. The Article would therefore rely solely on the goodwill of the flag states eg Panama and Norway to enforce the international conventions down here in the Timor Sea.

The practical situation is that those vessels crewed with Australians comply with Australian maritime and industrial law. The vessels crewed by foreign nationals are not subject to any enforcement process unless they enter an Australian port and are subject to Port State Control inspection. The vessels constructing the Bayu Undan will not and have not entered an Australian port, and this has major implications for health, safety and the marine environment.

We contend that the Australian Navigation Act should be given full force in the JPDA until such time as East Timor has the infrastructure and laws to share its responsibilities to enforce maritime law.

The AMOU would like to have further input on these matters should the Committee undertake public hearings.

Regards,

Brad George

Brad George
National Industrial Officer (Fremantle)
31st July 2002

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