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This edition provides an update of recent and interesting international legal developments affecting Australia and distinctive contributions made by Australia to contemporary international legal issues during September 2009.

## International Environmental Law - Timor Sea Oil Leak

On 21 August 2009 an oil spill in the Timor Sea commenced when an oil platform in the Australian Montara oil field began spewing crude oil. The West Atlas mobile offshore drilling unit is located 250 kilometres north of Truscott and 690 kilometres west of Darwin. It is owned by Norwegian company Seadrill and operated by a Thai-based company PTTEP Australasia. The cause of the leak is unknown but is believed to have occurred in wells up to 3,500 metres below the rig. Workers were evacuated from the site when oil and gas began leaking. The resulting oil slick is 14 kilometres long, 30 metres wide and approaching the West Australian coast. Several attempts to plug the leaking well with heavy mud have failed. Although PTTEP has employed technical experts, it has struggled to bring the oil slick under control given logistical challenges. The rig has most recently caught fire. The company has indicated that any environmental impacts will be minimal given its remote location and is prepared to meet the operational costs associated with the clean-up.

The Australian Maritime Safety Authority is coordinating the emergency spill response, in accordance with Australia's National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances. Authorities have declared a 37-kilometre exclusion zone around the rig and a Hercules aircraft has been dropping dispersant chemicals. The Department of the Environment, Water, Heritage and the Arts is also ensuring the preservation of any wildlife in Commonwealth waters that might be affected and is responding to any possible impacts to Commonwealth marine reserves. The plan of action includes measures for treating any wildlife that might be affected by oil at Ashmore and Cartier marine reserves, which are about 80 nautical miles from the Montara site, locating appropriate response equipment at Ashmore Reef and cooperating with Customs and Border Protection officers. The Minister for the Environment, Heritage and the Arts, Mr Peter Garrett, has formally exempted the company's use of a floating jack-up oil rig to relieve pressure on the leaking oil well under the Environment Protection and Biodiversity Conservation Act 1999 (Cth). This decision was made in the national interest because the consequences of allowing the spill to continue whilst an environmental impact assessment was being prepared was considered worse than any impacts which might arise from actions taken to stem the oil flow. The Government has also concluded an agreement with PTTEP Australasia for a long-term environmental monitoring program in addition to the operational monitoring, surveillance and wildlife programs already underway in the region. Input was provided by experts from the Australian Institute of Marine Science, CSIRO and relevant State and Territory agencies to ensure surveillance of the marine life, wildlife and habitat studies, continued water quality testing and shoreline ecological assessments (see further 'Monitoring Plan for the Montara Well Release Timor Sea').

The response and monitoring effort includes daily aerial and water-based surveillance. A team of three marine biologists has also conducted a survey of marine life in the region surrounding the Montara platform and Ashmore islands. The study provided a census of and identified the impacts upon species such as birds, whales, dolphins, marine turtles and sea snakes (see further 'A rapid assessment of the impacts of the Montara oil leak on birds, cetaceans and marine reptiles'). Toxicology tests have also been conducted on four fish specimens collected in the vicinity of the spill. Expert analyses of the specimens indicated no oil contamination (see further 'Report on Biopsy Collections from specimens collected from the surrounds of the West Atlas Oil Leak - Fish specimens').

Birds such as common noddies, brown boobies and sooty tern found in the region have been identified as having been affected by the oil spill. Birds found in the region are being treated by a qualified wildlife expert on-site at Ashmore marine reserve. The process involves capturing the animal, stabilisation and providing onsite care. Birds that require additional attention are transferred to a veterinary clinic. The federal and Western Australian governments are also establishing a joint wildlife response centre at Broome. It is anticipated that rehabilitated wildlife will be released into the ocean once they have fully recovered as determined by wildlife experts. There has been one confirmed report of an oil-affected sea snake. No other confirmed reports of affected wildlife have been received, particularly in relation to whales or other cetaceans. There is no available evidence to suggest that the migratory or breeding patterns of any wildlife have been affected.

The environmental monitoring program includes studies to identify any actual and potential impacts to marine reserves over the long-term. At present no oil patches have been observed at Ashmore or Cartier marine reserves. Some minor sheen has been observed but appears to be evaporating. There are no seagrasses known to be in the immediate vicinity of the oil spill. Members of the public who observe oiled wildlife or habitat are being encouraged to contact the relevant State environmental agency or the federal environment department in relation to Commonwealth waters (Source: <http://www.environment.gov.au/coasts/oilspill.html>).

The World Wildlife Fund (WWF) has also issued several statements and a report. It disputed a conclusion made by the Australian Petroleum Production and Exploration Association that there was no evidence of harm to marine life. PTTEP had also reported that 25 birds had been affected by oil of which 16 had died. The company said that to date there were no reports of affected whales or dolphins and tests on fish specimens indicated no oil contamination.

WWF considers that abundant marine life has been exposed to toxic oil for approximately two months. Dolphins, migratory sea birds, sea snakes and hawksbill and flatback turtles have been found in slick-affected areas during a recent survey. WWF's expedition recorded 17 species of seabird, four species of cetacean and five marine reptiles, including two marine turtle species. At least eleven of these species were listed as migratory and two - hawksbill and flatback turtles - are listed as threatened with extinction under the Environment Protection and Biodiversity Conservation Act 1999 (Cth).

In addition to the mortality rates for marine wildlife, WWF is concerned by the long-term environmental impact of the oil slick on the marine ecosystem. It noted that impacts from the Exxon Valdez disaster are being observed some 20 years after the event. A recent Senate Estimates hearing has also revealed that, based on Geoscience Australia data, the amount of oil spilling from the well was far greater than PTTEP had estimated. WWF has called for the data and observations on marine impacts collected by a second sea-based survey team to be made publicly available particularly since October is recognised as the prime spawning period for corals and red emperor in the region. Additional surveys are also required to monitor other immediate and long term impacts.

Several downloads are available from the WWF website: a Biodiversity Survey of the Montara Field Oil Leak, a summary report, database information and a report entitled Montara Field Oil Leak and Biodiversity Values.

(Source: <http://www.wwf.org.au/news/expedition-observes-hundreds-of-marine-creatures-in-oil-slick/>).

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