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Aussie spies accused of bugging Timor cabinet

LEO SHANAHAN THE AUSTRALIAN MAY 29, 2013 12:00AM

AUSTRALIA'S overseas spy agency has been accused of breaking into the cabinet rooms of the East Timorese government under the instruction of then foreign minister Alexander Downer and covertly recording the Timorese foreign minister and officials.

The East Timorese government claims that the Australian Secret Intelligence Service conducted the operation in Dili during the 2004 negotiations over a treaty that governs billions of dollars in gas revenue between the two nations - and which Timor now claims is invalid.

East Timor's Resources Minister Alfredo Pires and lawyer Bernard Collaery allege that ASIS breached international law and Timorese sovereignty during the negotiations over the Greater Sunrise natural gas reserves under a "criminal conspiracy hatched in Canberra".

The allegations emerged as China yesterday denied claims that it mounted a cyber attack to steal the plans for ASIO's Canberra headquarters.

The Australian understands the breach occurred in 2010, or possibly 2009, with the layout of the \$630 million building accessed via a contractor working on the site.

In the wake of the Greater Sunrise espionage claims, the Timorese government has declared the Certain Maritime Arrangements in the Timor Sea Treaty invalid and triggered compulsory arbitration.

"That treaty was negotiated in a number of sessions, and in negotiating . . . in October 2004, Australia clandestinely monitored the negotiation rooms occupied by the other party," Mr Collaery told The Australian.

"So it was a Watergate situation. They broke in and they bugged, in a total breach of sovereignty, the cabinet room, the ministerial offices of then prime minister (Mari) Alkitiri and his government. They placed clandestine listening devices in the ministerial conference room, we call it a cabinet room."

Mr Downer declined to confirm or deny the allegations.

"I am not in the business of giving any commentary on intelligence matters full stop," Mr Downer said. "Otherwise we won't have intelligence services."

Neither Mr Collaery nor Mr Pires would divulge details of evidence of the alleged operation but described it as "irrefutable".

"As far as Timor Leste is concerned, CMATS Treaty is invalid . . . it has come to our knowledge . . . that there was some covert operations by the Australian intelligence, which allowed the Australian team to have access to conversations by our negotiating team," Mr Pires told The Australian .

The Timorese government, which has assembled some of the world's best international lawyers to fight the case, is furious with Foreign Minister Bob Carr and Attorney-General Mark Dreyfus for issuing a press release earlier this month that it says was an attempt to discredit the allegations.

Mr Pires and Mr Collaery said the issuing of the press release publicising the Timorese arbitration claim violated an agreement made when Julia Gillard met Timorese Foreign Minister Jose Luis Guterres on December 7 last year not to engage in "megaphone diplomacy" on the issue.

After the failure of initial talks with Australia over the dispute, East Timor filed for compulsory arbitration under the treaty, a UN-recognised process, on April 23.

Senator Carr and Mr Dreyfus issued the joint press release on May 3, claiming East Timor was alleging espionage during the negotiations, but refused to go into any further detail.

"We wanted to keep this away from the megaphones, but it was done," Mr Pires said. He said East Timor specifically waited until after a vote that secured Australia a spot on the UN Security Council before lodging its claim.

Mr Pires said East Timor had every intention of following through on the allegations. "This is a very serious allegation, we do not have a habit of doing these things," he said. "We will have to back up our allegations."

"We are serious about it. Our leaders have made a decision."

Mr Collaery, a former ACT attorney-general and Australian diplomat, is in London working on the Timor arbitration claim with international lawyers Elihu Lauterpacht, which was employed by Australia during the nuclear test case, and Vaughan Lowe.

Mr Collaery claims that Mr Downer directly authorised the operation to listen covertly to the negotiations in a cabinet room built with Australian aid.

"Downer certainly knew," Mr Collaery said. "It was a carefully premeditated, involved, very lengthy operation with premeditated breaches of the Vienna Convention on the Law of Treaties, and premeditated breaches of the Vienna Convention on Diplomatic Relations. All premeditated and pretty mind-blowing . . ."

"This is a criminal conspiracy, a break-in on sovereign territory . . . and a breach of Australian law."

Greater Sunrise gas reserve revenues have been a contentious issue between the two nations since East Timor gained independence in 2002. The CMATS Treaty agreed to split government revenue for Greater Sunrise 50-50, as well as put boundary negotiations on hold for 50 years if the Greater Sunrise joint venture gas project with Woodside and Shell went ahead within six years.

The project has failed to get off the ground amid a disagreement over whether the location of the gas processing plant should be in northern Australia or in East Timor.

Mr Downer said he thought East Timor was motivated by a desire to redraw the CMATS Treaty so that a gas processing plant was built in Timor. "I assume ultimately they want to terminate the treaty, but I have no real idea what's motivating them," he said.

"They obviously have the option of going to arbitration and are hoping to do better out of it from that. But the real issue here is where they build the receival terminal or whether there is a floating LNG plant . . ."

"Not surprisingly - because of sovereign-risk issues - Woodside, and the consortium generally, have been keen to build it in Australia. Then they've come up with this idea of a floating plant that would be much cheaper than building it in East Timor. So I assume it's all to do with that."

Australia has until the middle of next month to nominate an arbitrator to the talks. Timor has appointed former British supreme court judge Lawrence Collins.
