

News

# Herald Sun

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## East Timor takes Timor Gap case with Australia to the Hague amid bullying claims

- by: Ellen Whinnett
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An Australian soldier stands alert next to a burning house set on fire by unknown gang members in Dili, June 2006.

Picture: AFP

Source: AFP

**FOR 40 years, Australia and its close neighbour, East Timor, have argued over the rich oil and gas reserves which lie buried under the azure waters of the Timor Sea.**

With \$40 billion worth of natural resources at stake, the fight over the aquatic "no man's land" known as the Timor Gap has been intense.

Australia stands by the deals it has negotiated, but East Timor and its supporters argue Australia has bullied its smaller and poorer neighbour out of resources income it rightfully owns.

East Timor has now taken its case to The Hague to argue the existing treaty should be scrapped.

And an ASIO raid this week on the Canberra offices of East Timor's lawyer and his intended star witness - a former Australian spy who claims he bugged East Timor's Cabinet room to eavesdrop on the Timor Sea negotiations - has further upped the stakes.

The former spy's passport was cancelled, leading the lawyer, Bernard Colleary, to claim the Australian Government was attempting to "muzzle" his witness by preventing him travelling to The Hague.

East Timor is arguing the 2006 treaty, known as CMATS, should be nullified, as the bugging showed it was not negotiated in good faith.

Last night, the case was due to enter the second day of preliminary hearings.

Mr Colleary said the talks, which would be held behind closed doors, would focus on ways for the witness to give evidence, given the cancellation of his passport.

"The raids were about suppressing wrongdoing back in 2004, it's an attempted cover-up," he said.



Frightened East Timorese pass by a burning car after hiding in a house from a mob attack. Picture: AP  
Source: AP

The hearing in The Hague is not seeking to determine a permanent maritime boundary between the two countries. Mr Colleary said that was a matter for the future.

Attorney-General George Brandis told federal Parliament yesterday Australian officials had met East Timorese officials in Thailand in February to discuss the dispute.

"The Australian government stands by the CMATS treaty. We consider that it was a treaty negotiated fairly and in good faith and we will defend these proceedings," he said.

Sen. Brandis said Australia was being represented at The Hague by the Solicitor-General Justin and Professor James Crawford, a professor of Public International Law at the University of Cambridge.

Sen. Brandis had earlier confirmed he had issued the warrants for the raids and said it was a criminal offence for any former or current ASIS officer to release information about ASIS activities.

"The warrants were issued by me, at the request of ASIO, on the grounds that the documents and electronic data in

question contained intelligence relating to security matters."

The former spy, who was a director of technical operations at ASIS, has sworn an affidavit which alleges he was told to bug the negotiations by the then-head of ASIS David Irvine. Mr Irvine is now the head of ASIO.

The spy was believed to be concerned that the bugging was used by the Australian Government for commercial purposes, not in the interests of national security.

The row relates to maritime boundaries and the carve-up of the resource-rich area of the Timor Sea which separates the two countries.

The current boundaries do not comply with favoured international protocols. Instead of providing a median boundary halfway between the two countries, the boundary stretches up close to East Timor, giving Australian vast tracts of seabed which lie much closer to its tiny neighbour than to Australian shores.

The contested Greater Sunrise fields lie 150km from East Timor, but 450km from Australia and the two countries share the spoils 50:50.

The protracted dispute has meant that Woodside, the Australian company which owns a third of the rights to develop the fields, has not yet begun production there.

Former foreign minister Alexander Downer signed the CMATS deal in 2006. After leaving politics in 2007, he formed a consulting firm which includes Woodside as its clients.

The ASIO raids sparked an angry response from East Timor's President Xanana Gusmao, who labelled them "counterproductive, uncooperative, unconscionable, and unacceptable conduct."

By contrast, East Timor's Ambassador in Australia, Abel Guterres, tried to cool the debate, telling the Herald Sun that the bugging had occurred when a different Government (John Howard's) was in power.

"I want to emphasise that the relationship (between Australia and East Timor) is solid and will go on," Mr Guterres said.

Mr Guterres also said East Timor had attempted to get Australia to the negotiating table quietly, without publicity, so as not to harm the Australian bid for a seat on the UN Security Council.

"As a neighbour, a friend and an ally, we wanted to conduct it that way, under the radar," he said.

"Timor-Leste (East Timor) delivered a letter to the then-Prime Minister Julia Gillard back in December for dialogue. The then-Prime Minister didn't take it up so this is where we are."

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