

Oil, gas and spy games in the Timor Sea

Claims of skullduggery reignite battle for riches in contested waters

AUSTRALIA and its impoverished northern neighbour Timor Leste are locked in a fresh legal battle over billions of dollars worth of oil and gas buried beneath the Timor Sea. Dili claims Canberra gained an unfair commercial advantage after it allegedly spied on Timor Leste's negotiating team 10 years ago, when the two countries were hammering out agreements to share a wealth of hydrocarbons in the waters separating them.

At stake are the Greater Sunrise fields, which collectively mark the biggest-ever discovery in the Timor Sea. The fields, estimated to hold at least 5 trillion cubic feet of gas, or about 4% of Australia's proved gas reserves, straddle the joint petroleum development area (JPDA) between the two nations and Australian territorial waters – determined by a 1972 seabed boundary agreement between Australia and Indonesia.

Dividing line

But under international legal principles, which would draw a median line between Timor Leste and Australia, most, if not all, of Greater Sunrise would belong to Timor Leste and the country could develop the hydrocarbons, estimated to be worth around \$40 billion, as it pleased. As far as the people of Timor Leste are concerned, they are the rightful owners of the resource. But a resource-sharing pact – the Treaty on Certain Maritime Areas in the Timor Sea (CMATS) – put a moratorium on maritime boundary claims for both sides while the treaty remains in force.

CMATS, which divides the revenue 50:50 from the Greater Sunrise fields, together with the International Unitisation Agreement (IUA), was designed to allow for resource to be exploited. But the project has stalled as the Woodside-led consortium, which has the rights to develop Sunrise, and the Timor Leste government have failed to agree on a development concept. Dili insists the gas be processed onshore, in Timor Leste, while Australian operator Woodside prefers what it claims is a more commercially competitive floating liquefied natural gas (LNG) scheme.

The latest twist in the decades-old saga, which stretches back to the early seventies, could have been plucked straight from the pages of a spy novel.

In April 2013, Dili formally notified



The spying game: Timor Leste and Australia are involved in a battle over snooping

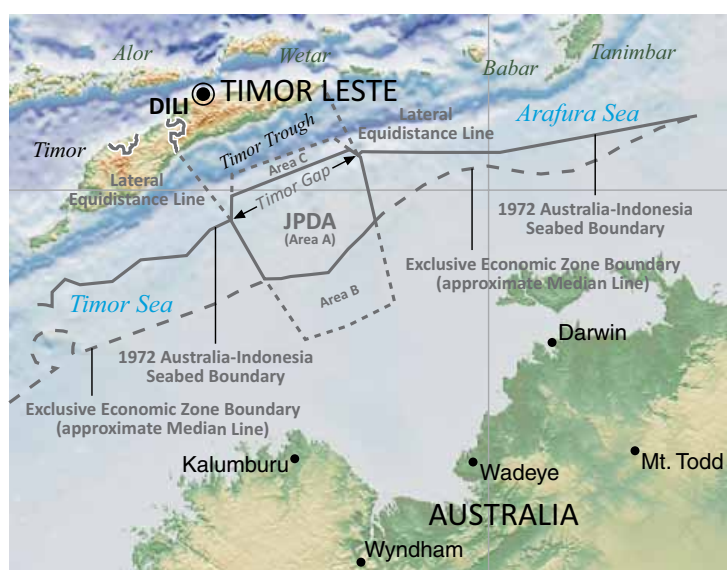
Canberra that it was exercising its right to arbitration under the Timor Sea Treaty, arguing that CMATS is invalid because Australia carried out espionage in 2004 and did not negotiate the treaty in good faith. Timor Leste reportedly accused Australia of bugging Australian hotels and Dili government offices while Timor Leste's negotiators were discussing their strategy.

If the accusations are proved true, Australia would have had the upper hand during negotiations for fields potentially holding some \$40 billion

worth of oil and gas. Certainly, understanding Timor Leste's then-prime minister Mari Alkatari's instructions, the divisions within his team, as well as Dili's bottom line, would have given Canberra a significant advantage during negotiations.

Adding a further twist, in December 2013, officers from the Australian Security Intelligence Organisation and the Australian Federal Police seized files and computers from the Canberra office of Bernard Collaery, one of the lawyers representing Timor

Figure 1: Timor Leste boundaries



Source: Petroleum Economist

Leste in the dispute with Australia over the CMATS treaty.

A simultaneous raid took place at the Canberra home of Timor Leste's key secret witness in the dispute. This former Australian Secret Intelligence Service (ASIS) agent, known as officer Kaye, had reportedly provided an affidavit alleging that Australian spies bugged the Timor Leste government's cabinet room in order to gain a commercial advantage during treaty negotiations in 2004.

His passport was confiscated in the raid, preventing him from traveling to The Hague, where the Permanent Court of Arbitration is due to hear Timor Leste's application to overturn the CMATS treaty. All ASIS agents undertake not to disclose details of secret operations – an agreement that would have been breached and subject to a stiff penalty if the former agent has revealed information about any activity in Timor Leste.

Australia defended its actions, saying the raids were carried out in the national interest to ensure security. The tribunal questioning the validity of CMATS is due to begin in The Hague at the end of September.

Paul Cleary, who was an advisor to Mari Alkatari's government during the Timor Sea negotiations, says Timor Leste's bid to void the treaty is not about the spying. Rather it's about the

city of Darwin in Australia's Northern Territory and the phenomenal development its leaders have witnessed in the space of just 10 years.

Leaders of the tiny nation, who frequently transit through Darwin, have been overwhelmed by the onshore development stemming from Timor Sea gas piped 500 kms to Australia that has transformed the once sleepy outpost into Australia's Dallas.

Darwin's first LNG exporting plant, operated by ConocoPhillips, started up in 2006. A second complex is being built. Timor Leste's Prime Minister, Xanana Gusmão, is convinced that the petroleum sector can similarly be used as a cornerstone for development at home and drive up employment.

Offshore LNG

The main thrust of Gusmão's development plans centre on an onshore LNG export plant supplied by Greater Sunrise. While Timor Leste's leaders are envious of Darwin, their bid to have CMATS invalidated risks becoming another case of the nation stirring up a foreign dispute that distracts attention from addressing mass poverty at home, argues Cleary.

Since 2006, when Dili had a budget of less than \$100 million per year, revenues from gasfields in the Timor Sea – mostly Bayu-Undan – have boosted Timor Leste's budget

16-fold. But there is little compelling evidence to show that the money is transforming the lives of the country's 1.1 million people. And the ConocoPhillips-operated Bayu-Undan fields could be empty within 10 years.

Data from the World Bank show that life expectancy is just 66 years, which has increased considerably. But 49% of the population lives in poverty, which is higher than the 36% in 2001, when the country was in transition from Indonesian rule.

While Gusmão's determination to take back what he sees as Timor Leste's rightful territory is of utmost importance, such single-minded determination may ultimately see Sunrise's development permanently stalled, a move which would also stunt Timor Leste's development. Legal proceedings against Australia, as well as big investors, such as ConocoPhillips, will do little to ease investors' concerns over sovereign risk in the country. Hundreds of thousands of lives have been lost fighting for Timor Leste's sovereignty, but sadly drawing a line on maritime boundaries may be an elusive goal. Its powerful southern neighbour has a history of being a formidable opponent when it comes to deciding wealth beneath the water.

Tom Clark, who was the coordinator of the Timor Sea Justice Campaign in 2005, says the only thing standing between Timor Leste and what it is legally entitled to is the Australian government.

"Australia could and should put an end to decades of hard-nosed greed and offer to negotiate in good faith with Timor Leste," he said.

Permanent maritime boundaries will provide more economic certainty for both countries and for the companies seeking to exploit the oil and gas resources. But, more than this, setting permanent boundaries in accordance with international law is the right thing to do, argues Clark.

It would also bring some closure to the Timorese people's long and determined struggle to become an independent and sovereign nation complete with maritime boundaries.

Canberra regards any softening in its stance on maritime boundaries as political folly that would leave its maritime agreements with other neighbouring territories open to dispute. **DE**

Figure 2: Timor Sea oil and gas infrastructure



Source: Petroleum Economist