

## Timor tax dispute fuelled by spying claims

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The government has told East Timor the fledgling nation can't tax a lucrative pipeline from a Timor Sea gas field, in a move that has further soured relations between Australia and its neighbour.

East Timor's legal advisers believe Australia's stance gives the country further grounds to launch another round of arbitration over the Timor Sea Treaty, the agreement that governs \$40 billion in oil and gas revenues that the nation wants declared invalid.

The government has been embarrassed by revelations it bugged East Timor's government offices as it negotiated the treaty and the espionage is being used by East Timor to force an arbitration in the Hague to have the treaty declared void.

Multinational energy company ConocoPhillips operates the Bayu-Undan natural gas facility in the Timor Sea, sending gas through a pipeline to Darwin for processing.

Treasurer Joe Hockey and Minister for Industry Ian Macfarlane wrote to East Timor in January saying they backed the assertion of ConocoPhillips that only Australia could tax the pipeline's activities as it had "exclusive jurisdiction" under the Timor Sea Treaty.

But East Timor alleges the company owes it hundreds of millions in tax revenue and it has a taxing right over income generated by the pipeline. The company and the nation are in the middle of arbitration proceedings in Singapore.

In a strongly worded reply to Mr Hockey and Mr Macfarlane, obtained by Fairfax Media, East Timor's petroleum and finance ministers, Alfredo Pires and Emilia Pires, insisted Australia's position on tax rights was "very surprising" and "regrettable".

"At no point has Australia raised an objection to Timor-Leste asserting and exercising its right to tax [the pipeline], despite being aware of Timor-Leste doing so."

A spokeswoman for Mr Hockey said Australia's letter was an attempt to re-start a constructive discussion.

"Australia has continued a dialogue with Timor-Leste to ensure there is clarity around tax arrangements in the Timor Sea," she said.

She declined to say whether Australia's position on tax rights was new.

But East Timor's legal advisers insist the position is new, and therefore triggers a dispute under the Timor Sea Treaty.

The significance of this new trigger is that Australia is attempting to get the current round of arbitration, based on the argument that Australia's spying rendered the agreement invalid, thrown out because the dispute mechanism under the Timor Sea Treaty hadn't actually been activated.

Pierre-Richard Prosper, a legal adviser to East Timor, said it appeared Australia did not realise the legal significance of the letter from Mr Hockey and Mr Macfarlane.

"What they have been working to avoid, they have inadvertently achieved," he said. "They have opened the door that they have been trying to close."

Dili is concerned the intervention is part of a wider and aggressive campaign by Australia over the Timor Sea reserves, which reached a new level when ASIO raided the offices of East Timor's Canberra-based lawyer Bernard Collaery. The raid prompted the International Court of Justice to issue an interim order forcing Australia to cease spying on East Timor and seal all material seized in the raid.

It comes as a confidential briefing note to East Timor claims a senior Australian diplomat told its advisers Australia was "unhappy" about the dispute, and told them the bi-lateral relationship was under threat. The diplomat also warned East Timor was "going to run out of money".

*This story was found at: <http://www.smh.com.au/federal-politics/political-news/timor-tax-dispute-fuelled-by-spying-claims-20140331-35u9d.html>*