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Dear Chair, Deputy Chair & Members,

We attach via email our submission to your Parliamentary inquiry into *Consequences of Termination of the Treaty between Australia and the Democratic Republic of Timor Leste (RDTL) on Certain Maritime Arrangements in the Timor Sea (CMATS)*.

Our submission expresses how we the Veterans, known in our country as former Combatants, think and feel about the conflict between Australia and Timor-Leste over Australia's refusal from 1999 on to settle permanent maritime borders with RDTL.

We also wish to inform the Committee that we the Veterans of Timor-Leste and the Veterans of Australia, have a deep and abiding relationship that grows deeper year by year. This year 2017 will be the third year our Veterans have visited Australia at the invitation of the National RSL and respective State Branches to participate in ANZAC Day and associated activities. Our Chief Veteran Kay Rala Xanana Gusmão comes on each visit.

We also have a close relationship with the War Widows of Australia and both the RSL and the War Widows have visited Timor-Leste and participated in our similar commemorative

activities. Further we have met with your Veterans Affairs Department who have showed us how the Veterans are honoured and cared for in Australia. It is impressive.

We also note that it was the NSW RSL who in 1975 at their State Branch called upon the Australian Government to help us after we were invaded by the Indonesian military.

We also have a very close and special relationship with Sparrow Force Australia's first Commandos, who survived due solely to the efforts of our civilian citizens. Over 40,000 and estimated to be up to 60,000 civilians were murdered by the Japanese Imperial Army for looking after Australian soldiers. The Australian soldiers called it a Debt of Honour they owed to all Timorese and felt it keenly and many took that to their graves. The few remaining alive honour this and their families are carrying on their legacy; as do some of the soldiers serving and retired who were part of Interfet in 1999 and the ISF in 2006.

CMATS termination and its consequences is but one part of a much bigger story, well known to all Timorese from the poorest to the richest; from Dili to Baucau, to Batugade, to Same and so on right around the country.

We fought and paid dearly to reclaim our independence, our sovereignty, for the right to claim back, know and call our borders our own. We know that the Australian Government also values its borders. So we know that you will understand why it is that we take our borders so seriously, enhanced by our particular history.

We have not yet finished that journey to full independence and for us we feel that we cannot without marking our maritime borders, especially with Australia, who has long denied us our right. Firstly by saying yes we shall do the borders with you and then not, and pushing the agreements we now have, and then by stopping us from going to international courts like the ICJ and ITLOS.

Australia did this just when our independence was reclaimed. That is took away the right for us to seek to have any dispute on maritime borders with Australia taken to those courts. We are told that this is legal but it is not quite neighbourly. It also made us believe even more that what Australia was claiming to be their area in the Timor Sea was not right, as if it was they would have been happy to have the international court deal with it if the countries could not agree. We still believe this and now have much better legal information to support our belief. We are also saddened that our leaders and our government have had to be preoccupied with this matter using our scant resources financial and human. You would know that we could find plenty of things to expend these resources on.

It is good to note that the respective governments RDTL and Australia have reached a shared understanding of the termination of CMATS for three reasons. 1. It shows that progress has been made through the good offices of the Compulsory Conciliation Commission. 2. That a United Nations procedure is working to equalise a bigger more powerful state with a smaller less powerful state for the purposes of state to state negotiations. 3. It removes one area of discord in this long running conflict over not settling permanent maritime boundaries.

We further noted that when RDTL and Australia announced in January their respective positions on the ending of CMATS, that both also announced that they would work to settle permanent maritime borders by the end of the Compulsory Conciliation Commission's term in September this year.

Coming from Australia we were pleased to read that, but remain cautious as Australia has said before it would do this, but never did, and in our view never had any intention of so doing. That is why we ended up with the agreements regarding the Timor Sea and some 18 years later as yet no permanent maritime borders.

The Australian Government made it clear in 1999 at our restoration of independence, that the settling of permanent maritime borders with our country was not their intention. What the government did make clear was that they simply wanted to continue the terms of the Timor Gap Treaty of 1989 between them and Indonesia. A treaty that was done with a neighbour that the United Nations and the Security Council did not recognise as being lawfully in then Portuguese Timor.

The matter of our illegal occupation was listed as well on the United Nations Committee that deals with decolonisation. We saw the Timor Gap Treaty as illegal, so it could not continue. That was made clear by our leaders. But as successive Australian Governments had extended formal recognition to Indonesia to be able to continue negotiations on resources in the Timor Sea, we were not surprised. Disappointed bitterly, yes.

CMATS obviously has not worked, as it is now some ten years since it was signed and nothing has happened at all. It became another area of conflict, with no proper provision in it to settle conflict. This was reinforced by the Compulsory Conciliation Commission who said in their decision on whether or not they had the right to exist after Australia objected to their very existence, that CMATS was an agreement NOT to settle disputes. That is what the Australian Government has achieved, putting RDTL in a position where it had no access to international courts or no way to get Australia to sit and settle maritime borders. The Compulsory Conciliation Commission was one provision of the law of the sea (UNCLOS) that Australia could not remove itself from, and RDTL had to action it to get Australia to sit at the table with it.

CMATS did not become what it was referred to at its outset-a creative way to get over not marking maritime boundaries. We the Veterans saw it as a creative way for Australia to get access to sea territory and resources, we believed to be ours and still do. However we know that Timor-Leste leaders were stuck, and had to agree to these arrangements, as Australia had time and wealth on its side.

Our view is that all it did was delay what we have a right to do and that is to have our borders marked, both land and sea. We have been doing that with Indonesia and yes there is one bit of land border left, where it is not so easy, but the goodwill and the good teams are in place working towards agreement. That ideally should have happened between our two countries but Australia refused to do so, by saying well we cannot agree. International law we are told is clear on how maritime boundaries are marked when countries are close, under 400 nautical miles apart and their coastlines are opposing.

That is our two countries. The border starts with the marking of what is the median line that the experts seem to call equidistant.

We believe that Australia would not agree because according to the law that makes the median line the starting point, that Australia's position is one that would give Australia more than it is entitled to under the law. We have listened to lawyers and technical experts in the law of the sea, and international law and know that Australia cannot continue to say that they can have our seabed resources that are within 30 nautical miles of our coastline. You ask every villager in Timor-Leste and even they know that is not right. I am told by our Australian friends, many Veterans like us and they tell us that they say the same and that if you ask any taxi driver or the people at the pub on Friday night, they say the same.

We remain puzzled as to why Australia would do this. We are hopeful though that with Australia having to justify its position on natural prolongation of the continental shelf, as we see it called, it will be seen as unsustainable as it must be to the experienced Compulsory Conciliation Commissioners. We think that this must be the first time that Australia has had to try and justify its position with law and we are told and we believe that they will not be able to do this.

In conclusion we want to thank JSCOT for giving us the opportunity to say how we feel, and we hope that JSCOT Members accept our submission in the spirit of our Veterans to Veterans friendship and goodwill that we feel towards Australia, despite our difficult history. We often look to Australia for many things and we hope to do this in terms of international law as well, once we have our maritime borders done.

We believe that the consequences of CMATS termination are positive as it does allow our countries to talk and negotiate, so that has to be a good consequence. We hope that members of the committee can look beyond CMATS itself and see that it is a small part in a relationship that has had highs and lows, and we hope that more highs are coming.

We thank you and invite you to please visit and for those who have already to visit again. We the Veterans will make you very welcome in the Timorese way as our honoured guests. We are also ready to talk to you as well at your Committee.

Yours in solidarity and friendship

Jorge Alves 'Wemoris'
Veterans National Secretariat,
Taskforce for National Interest