

SUBMISSION NO. 26

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Subject: Submission to Inquiry into the TIMOR SEA TREATY.

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The Secretary
Joint Standing Committee on Treaties
Parliament House
Canberra ACT 2600.

Dear Secretary, here is my submission in relation to this current inquiry into the Timor Sea Treaty. Firstly as someone that lives in Darwin the nearest Australian city to the nation East Timor I am more than aware of the plight of the people of this new nation. Since 1974 till now this nations suffering has been immense and in most cases unnecessary, we as a neighboring nation have for a great part of this time ignored the plight of the people of this small half island Nation. The intent of Australia too ignore in the past the illegal occupation of East Timor by the Republic of Indonesia, has shown our cowardice stance, in fact the United Nations (UN) did not recognize the Indonesian annexation of East Timor nor did any other UN member state. This however did not stop Australia and Indonesia's ability to co-negotiate the Zone of Cooperation Area (ZOCA) Treaty Agreement of 1990 and subsequent amendments up to 1998. It is the nature of these agreements that I will concentrate this submission on.

Prior to the current "National Interest Analysis" (as amended) of 20 May 2002 and subsequent Treaty including the Exchange of Notes there was another "National Interest Analysis" titled "Treaty between the Government of Australia and the Government of the Republic of Indonesia establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries, done at Perth on 14th of March 1997" (NIA Treaty of 97'). On reading this document which covers the same area as the current Treaty, there are two anomalous differences, firstly both parties Australia and Indonesia had 200 nautical mile boundaries creating the overlap area that became the ZOCA region and secondly both parties recognized fully the Legal Framework as set out by the UN Convention on the Laws of the Sea (UNCLOS) which within its protocols has triggers' to enable either party to seek an outcome from the UN International Court of Justice (ICJ). This prior agreement was **fair and equitable** to both parties and should be the basis of agreements entered into in the near future.

As the equation now encompasses three separate Sovereign Nations namely The Commonwealth of Australia, the Republic of East Timor and the Republic of Indonesia all negotiations **forthwith** should be Trilateral in nature and include all the mechanisms of the UNCLOS and ICJ, to continue in the current desperate piecemeal fashion is not equitable or prudent in the long term. To enable this process to happen the current Treaty and Exchange Notes of 20 May 2002 should be nullified completely and discharged pending an interim agreement. The amendments to Australian clauses of both ICJ and UNCLOS of the 21 March 2002 will need to be reverted back to their status prior to this desperate action. Only after these changes will Australia be on a level and equitable footing.

Since the illegal invasion of East Timor in 1975 till today the negotiations have been resource and fiscally based I think this "clouds" the real diplomatic nature that should be the basis of border negotiations. This factor is all to obvious in the current 20 May 2002 arrangements, where we see very onerous conditions placed on East Timor. They are 40% of East Timor's income from revenue derived from resources will be held in an escrow account pending final ratification, and the inability to negotiate any Border Issues including an Exclusive Economic Zone under the full conditions of both UNCLOS and the ICJ. The many other issues of environmental management, ecological sustainability of marine life including fisheries stock and rights of passage of various vessels be they non citizens seeking refuge or Nuclear Armed and Powered Submarines, these issues are not addressed and need to be.

The recent actions of the Australian Diplomatic Core (DFAT) in negotiating and signing of treaties with UNAMET, UNTAET and the Sovereign Nation of East Timor have been in an environment of constant change which no doubt has pressured the Political and Governmental bodies of East Timor, perhaps a cooling off period is required too clear the air. The resource companies associated with both major prospects at Bayu Undan and also Sunrise Troubadour should not be leading the desired outcome of our or any other nations diplomatic negotiations, yet this is the case as I see it. If the current Treaty and

Exchanges notes are not amended to a more fair and equitable arrangement then I fear that East Timor will get cold feet come ratification time and all this work will be in vain.

In Summary I would like the Committee to fully review the NIA Treaty of 97 in full and be aware of the upcoming "Joint Petroleum Development Area Summit 2002" that will be held in Melbourne on 25-27 September 2002 as well as the "Lowe Carlton Ward" Sea Boundary Delimitation appraisal. All of these documents have already been forwarded to the committee recently. I am more than willing too participate in any hearings pending on this issue should the need arise and request the hearing to be "IN CAMERA" due to the sensitive nature of issues to be raised including documentation.

Yours Sincerely Matthew Martin Joseph Coffey...

PS: May I say that the Committee Secretariat has been very helpful in all requests, Thanks...