

SUBMISSION NO. 42

From: scoop@gol.com  
Sent: Friday, 2 August 2002  
Subject: Submission to JSCT re Timor Sea Treaty

Submission to the Australian Parliament's Joint Standing Committee on Treaties regarding the Timor Sea Treaty between the Government of Australia and the Government of East Timor

From: Tokyo East Timor Association (Japan)  
To: Paul McMahan, Committee Secretary  
Joint Standing Committee on Treaties  
Department of House of Representatives, Parliament House  
Canberra ACT 2600 Australia

August 2, 2002

Dear Honourable Members of the Parliament of Australia,

We are writing to you to express our concern about the Timor Sea Treaty that was signed by the governments of Australia and East Timor on May 20, and to urge you to not to ratify the treaty in its current form.

East Timor is the world's newest nation, and also one of its poorest. It was left largely undeveloped during the period of Portugese colonial rule, and then suffered massive death and destruction as a result of Japan's occupation during World War II and Indonesia's illegal invasion and occupation in 1975. Thousands more died and the country was reduced to ruins when the Indonesian army and its militias carried out a scorched earth policy in the wake of the 1999 referendum.

Revenue from the oil and gas fields in the Timor Gap will play a crucial role in determining whether East Timor is able to overcome the horrors of its past and build a decent future for its citizens. However, the Timor Sea Treaty offers East Timor far less than its fair share of its only real natural resources, thereby robbing it of billions of dollars worth of future revenue that the government desperately needs to provide health care, education and other basic services to the population.

The Australian government has emphasized the fact that 90 percent of the revenues from the Joint Petroleum Development Area (JPDA) defined in the Timor Sea Treaty will go to East Timor, and only 10 percent to Australia. However, if current principles of international law are applied, East Timor would be entitled not only to 100 percent of the JPDA, but also to 100 percent of the oil and gas fields within East Timor's Exclusive Economic Zone (EEZ), which under the UN Convention on the Law of the Sea is defined as extending between East Timor's shoreline and the median line between East Timor's and Australia's coastlines. The lateral boundaries of East Timor's EEZ, between East Timor and Indonesia/Australia, belong significantly outside the currently-defined east and west edges of the JPDA. This is of crucial importance, as the biggest

single resource in the Timor Gap, the Greater Sunrise field, straddles the border of the JPDA and the eastern portion of East Timor's EEZ and falls largely within the latter, an area which goes to Australia under the current treaty. If the treaty is ratified in its present form, East Timor will therefore lose out on a huge chunk of revenue to which it is legally entitled.

Australia has consistently urged the East Timorese government to follow democratic principles and abide by the rule of law, but has behaved in precisely the opposite fashion itself in this case. It has pressured the East Timorese government to sign a patently unfair treaty and has refused to negotiate in good faith to determine the legal maritime boundary between the two countries, even going so far as to withdraw from the maritime boundary dispute settlement mechanism of the International Court of Justice. This is particularly unconscionable considering the fact that Australia, like Japan, supported the illegal Indonesian invasion and occupation of East Timor, and therefore owes the East Timorese people a heavy moral debt for the suffering they have endured.

It is true that Australia has helped support the East Timorese in recent years, by leading the international force that established security in East Timor after the 1999 referendum and providing millions of dollars in military and economic aid. However, Australia stands to gain far, far more from the Timor Gap Treaty than the sums it has spent on aid to date. The oil and gas fields north of the median line between East Timor and Australia -- which, as mentioned, would go entirely to East Timor if international law were impartially applied -- are expected to generate around \$40 billion in revenue, and Australia will gain more than half this sum under the present treaty.

As an organization that has long supported the East Timorese people's right to self-determination and a life free from fear and want, we do not believe this is just, and we urge you to think carefully about the negative impact the Timor Sea Treaty will have on East Timor and on Australia's international reputation as a country willing to give everyone a fair go. East Timor is a tiny, impoverished nation that will need continuing support from the international community if it is to have any chance of offering its citizens a decent future. Acting in good faith to jointly develop the resources in the Timor Gap is one of the most significant steps Australia can take to help East Timor in this struggle. We therefore urge you to advise the Australian government not to ratify the treaty in its current form, and to recommence negotiations with the East Timorese government in order to produce a treaty that properly reflects East Timor's rights under international law.

Yours sincerely,

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