Compilation of Timor Sea Reports

During the last half of 2002, The La’o Hamutuk Bulletin published many reports on Timor Sea oil and gas issues which are collected in this compilation. Additional information and future reports can be read on La’o Hamutuk’s web site at http://www.etan.org/ lh or the OilWeb CD-ROM (see page 27).

May 2002

With Independence, What Changes for the Timor Gap?

Borders and Oil Deals between Australia and East Timor

Revenues from oil and natural gas currently represent East Timor’s greatest hope for meeting the nation’s basic needs in the future. Although a few small oil and natural gas deposits exist on East Timor’s land, the current discussion focuses on much larger oil and gas deposits in the waters between East Timor and Australia. These deposits mean between US$8 and US$38 billion (thousand million) for East Timor over the next thirty years. (East Timor’s government budget for the coming year is US$77 million.)

Currently, East Timor and Australia are negotiating a treaty to jointly develop petroleum in the Timor Gap, an area previously subject to a treaty between Australia and Indonesia. The question of whether East Timor’s share is closer to US$8 billion or to US$38 billion depends largely on where boundary lines are drawn in the Timor Sea. Some experts state that if the maritime (seabed) boundary were established using current international legal principles, East Timor would stand to gain more than US$30 billion. The issue of the maritime boundary between Australia and East Timor is not new, but East Timor’s independence brings new questions and challenges.

Many expect that shortly after East Timor’s official independence, new East Timorese Prime Minister Mari Alkatiri and Australia will sign the ‘Timor Sea Arrange-

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These reports are also available in Bahasa Indonesia.
little understood by most East Timorese. Future issues of the *La'o Hamutuk Bulletin* will look at other aspects of East Timor’s oil and natural gas resources, including current exploration projects, oil companies’ involvement, labor and environmental concerns, and the global context of oil and gas exploitation.

**Maritime Boundary between East Timor and Australia**

Upon independence, East Timor will have no definite maritime boundaries and will need to seek maritime boundary agreements with both Indonesia and Australia. Past maritime boundaries between Australia and Indonesia lay the foundation for the current division of oil and gas reserves in the Timor Sea as well as in the proposed treaty. To understand where East Timor currently stands, it is important to look at the history of the maritime boundary between the two countries.

In 1972, using the continental shelf argument (which argues that a seabed boundary should follow the deep-
The point on the ocean floor between the countries), Australia managed to negotiate with Indonesia a maritime boundary that gave Australia 85% of the ocean territory between the two countries. Portugal never accepted the continental shelf argument and unsuccessfully sought a boundary located mid-way between Australia’s and East Timor’s coastlines. The contested area became known as the “Timor Gap.”

In 1975, with full knowledge of Indonesia’s intention to invade East Timor, Australian Ambassador to Jakarta Richard Woolcott sent a confidential memo to his government, stating that “closing the present gap in the agreed sea border could be much more readily negotiated with Indonesia...than with Portugal or an independent Portuguese Timor.” He noted in the memo that the Ministry of Mines and Energy might be interested in this.

In 1979, after international outcry over Indonesia’s brutal invasion and occupation of East Timor had subsided, Australia began to negotiate with Indonesia on the Timor Gap area. Unable to agree on permanent maritime boundaries, the two countries decided to create an agreement to jointly develop petroleum in the area between the median line to the south and the 1972 seabed boundary to the north. Only a few years later, in 1981, Australia and Indonesia agreed on a fishing boundary that ran along the median line. And in 1982, the United Nations Convention on the Law of the Sea (UNCLOS), redefined international maritime law stating that for countries with less than 400 nautical miles of sea between them, the international boundary would be the mid-point.

The United Nations never recognized East Timor as part of Indonesia. However, in 1989, despite ongoing human rights violations, Australia and Indonesia signed the Timor Gap Treaty. This treaty divided the Timor Gap region into three sections in which petroleum production in the largest area, Area A, was to be equally shared by the two countries. In Area C, closest to East Timor, 90% of the production would go to Indonesia and 10% to Australia. In Area B, Indonesia received 10% and Australia 90%. (See Map 1.)

Under this division, contracts were signed with multinational oil companies including U.S.-based Phillips Petroleum, British and Dutch owned Shell, and Australian-based Woodside and Broken Hill Propriety (BHP). Contracts were signed in December 1991 and first explorations began in 1992. For the Australian government and these companies, the prospect of money from oil was more important than East Timor’s human and political rights.

As these explorations in the Timor Gap were beginning, Portugal brought a case against Australia and the Timor Gap Treaty to the International Court of Justice (ICJ), claiming that the Treaty violated the rights of both Portugal and the people of East Timor. In the end, the
PetroTimor: Ancient History?

Many of the experts who have recently raised questions around Timor Sea oil developments were brought here by PetroTimor, a U.S.-based company. PetroTimor was first involved in East Timor oil developments more than thirty years ago – and their involvement now could have far-reaching effects.

PetroTimor is part of Oceanic Exploration, Inc., a small oil company based in Denver, USA. Oceanic Exploration is owned by General Atomics, a large U.S. corporation involved in military contracting, nuclear power, and electronics. Oceanic Exploration has done oil exploration in Greece, Bolivia, Taiwan and other places.

According to PetroTimor, Portugal granted them concessions to explore for oil in the Timor Sea in December 1974, in return for East Timor’s ownership of 20% of PetroTimor. East Timor, then a Portuguese colony, was expected to be independent in a few years. The company was given exclusive exploration and development rights for an area from East Timor’s south coast to the Timor-Australia median line, with lateral boundaries approximately the same as the 1989 shared area (Areas A and C) now referred to as the Joint Petroleum Development Area (see Map 1). The company began to explore the area in 1975, identifying major features in what are now called Bayu-Undan and Greater Sunrise fields.

When Indonesia invaded later that year, PetroTimor’s agreement became meaningless as Portugal no longer controlled the territory. The company evacuated from Dili, disappearing until June 2001 and playing no part in East Timor’s struggle for independence. But as soon-to-be-independent East Timor was preparing to sign the Timor Sea Agreement with Australia, PetroTimor reasserted its claim in an unsuccessful effort to spoil the negotiations.

In August 2001, PetroTimor filed a lawsuit against Phillips Petroleum and the Indonesian and Australian governments in Australian court, asking for up to US$1.5 billion in compensation for their expropriated property rights. In the suit, which has yet to be decided, PetroTimor claims that Indonesia’s removal from East Timor restores their concession, and that arrangements made with oil companies by Australia and Indonesia during the occupation are invalid. They say they are not trying to disrupt the current plans and contracts, but simply to be paid for their property.

PetroTimor is also lobbying the East Timorese government to reject the Timor Gap Treaty (JPDA) boundaries and to claim larger boundaries based on Law of the Sea principles. The company is also promoting the idea of a gas pipeline and LNG liquefaction plant in East Timor, instead of to Darwin or on a floating platform, which La’o Hamutuk will examine in a future Bulletin.

PetroTimor could gain a great deal by upsetting the currently proposed arrangements, and they have nothing to lose. They have offered to hire attorneys so that East Timor can bring its boundary claims to court. In return for giving up its 1974 concession, PetroTimor states that they “would expect to participate in the additional government revenues presently attributed to Australia which result from the extension of East Timor’s seabed boundaries.” The company would also be 20% owned by East Timor’s government and promises to invest 20% of its profits in East Timorese businesses.

The PetroTimor presentations at the 23 March seminar in Dili skipped key facts such as PetroTimor’s Australian lawsuit. The issues they raise, however, are critically important. And when East Timor’s government decides to pursue the boundary question in court, they should consider PetroTimor – along with others – among the possible sources for legal assistance.
lia are still in discussions. Also, many questions have recently been raised about the proposed treaty and whether it is, as its proponents describe it, the best deal East Timor can achieve with Australia.

A key question is whether the Arrangement jeopardizes in any way the settlement of a fair maritime boundary following principles of international law.

UNTAET’s negotiating team for the Timor Sea talks included both internationals led by Peter Galbraith, then Cabinet Minister for Political Affairs and the Timor Sea, and East Timorese leaders led by the Economic Minister for the transitional government, Mari Alkatiri. By their own accounting, when the team began negotiations, they were intent on resolving the maritime boundary question first. Australia, however, refused to discuss boundaries, agreeing only to discussion of how production revenues in Area A of the old treaty (now referred to as the Joint Petroleum Development Area – JPDA) would be shared.

As both Galbraith and Alkatiri explain, East Timor’s negotiating team then decided to proceed on two tracks: First, to enter into an interim arrangement regarding joint development of petroleum resources that would in no way decide future maritime boundaries, but would enable East Timor to benefit immediately from petroleum operations. Second, to set out East Timor’s maritime claims upon independence and to enter into maritime boundary negotiations with both Indonesia and Australia. Deciding the maritime boundaries first, they explain, would have taken too long and meant a loss in immediate revenues to East Timor. The Arrangement that emerged is presented as a temporary treaty to facilitate the immediate development of petroleum while working out the issue of maritime boundaries.

A recent Dili seminar (23 March 2002) sponsored by PetroTimor (see page 4), presented different information, raising concerns about the proposed Arrangement and what it may cost East Timor in lost revenues. According to the oil industry experts who spoke at the seminar, signing this Arrangement would jeopardize the settlement of East Timor’s maritime boundaries under principles of international law. In the seminar, experts argued that by signing the Arrangement, Australia will have a stronger claim to maintain the boundaries in the treaty as international maritime boundaries, thus ensuring Australian rights to some of the largest and most lucrative oil and gas fields, namely the Greater Sunrise and Laminaria-Corallina fields with a potential revenue of up to US$38 billion (see Map 2).

Two days after this seminar, the Australian government withdrew from the legal process of resolving maritime boundaries within the International Court of Justice (ICJ) and from dispute settlement under the U.N. Convention on the Law of the Sea (UNCLOS), stating that “Australia’s strong view is that any maritime boundary dispute is best settled by negotiation rather than litigation.”

The Content of the ‘Timor Sea Arrangement’

The Arrangement covers petroleum development in an area called the Joint Petroleum Development Area (JPDA), the same area referred to as Area A in the Timor Gap Treaty between Australia and Indonesia. The proposed treaty would allow East Timor to receive 90% of all oil and gas royalties from the JPDA, a clear improvement to the 50% split in the Timor Gap Treaty. (“Royalties” refers to the percentage of profit different parties receive. Oil companies take approximately 50% of all production profits; the other 50% is divided between East Timor and Australia as specified by the Arrangement.) Because the Greater Sunrise field straddles the JPDA borderline, a special “unitization” agreement has been devised (unitization means viewing the field as a unit or a whole). Since approximately 20% of the field is within the JPDA, the Arrangement gives East Timor 90% of revenues from 20% of production (i.e. 18%) in Greater Sunrise.

In terms of employment issues, the Arrangement states that there will be “appropriate measures …to ensure that preference is given in employment in the JPDA to nationals or permanent residents of East Timor.” Labor advocates in both East Timor and Australia, however, fear that this is far too general to be implemented effectively.

In terms of contracts with oil companies, which are currently the same as they were under the 1989 Treaty (except that East Timor has replaced Indonesia), the Arrangement would allow East Timor to tax companies for its portion of the oil at East Timor’s rates. This gives East Timor the power to gain more through enacting higher taxes, a power that Phillips Petroleum, among others, has strongly protested. Oil companies who be-
gin activities under the terms of this Arrangement would be able to begin work in Timor Sea oil and gas fields with the understanding that the conditions of their activities would not change. Both Alkatiri and Galbraith have noted the need for companies already operating in the Timor Sea to know that their investments are safe, regardless of future changes in boundaries. And while the Arrangement allows commercial aspects to be negotiated after the treaty is signed, there is currently pressure on East Timor from Australia to resolve certain detailed commercial issues before the signing.

In terms of the boundaries question, the proposed treaty states that “Nothing contained in this Arrangement…shall be interpreted as prejudicing or affecting East Timor’s or Australia’s position on or rights relating to a seabed delimitation or their respective seabed entitlements,” and “This Arrangement will be in force until there is a permanent seabed delimitation between East Timor and Australia or for thirty years.” Many observers fear that Australia will reject East Timor’s broader maritime boundary claims, and block or stall resolving the conflict for 30 years, during which time the gas and oil fields will be exhausted, with Australia getting the revenues from the richest fields.

The Arrangement also refers to a respect for “international law as reflected in the United Nations Convention on the Law of the Sea (UNCLOS).” Australia’s recent rejection of the ICJ and UNCLOS clauses on maritime boundaries contradicts, or at the very least complicates this part of the agreement. International lawyer Jeff Smith states that with its withdrawal, Australia has “effectively denied the working operation of the Arrangement.”

In a legal opinion commissioned by PetroTimor in April 2002, three internationally recognized legal experts state that despite these provisions, “in practice [the Arrangement] would undoubtedly compromise East Timor’s claims to areas outside the proposed JDPA.” According to their opinion, if the boundaries delimitation of the treaty “is considered an acceptable arrangement by Australia and East Timor when they enter into the treaty, it is not probable that any tribunal…would regard the boundary as inequitable.”

According to Alkatiri and others on UNTAET/East Timor’s negotiating team, this contradicts the advice of their leading legal experts who state that the Arrangement clearly states that it does not decide or impact where East Timor’s maritime boundaries will be. In an interview with La'o Hamutuk, Alkatiri expressed concern that PetroTimor is distributing disinformation for their own benefit. He explained that the negotiating team is very informed and aware of problems related to resolving the maritime boundaries through an international court process, and has thus prioritized negotiation. Like Indonesia, which never recognized the jurisdiction of the court, Australia has the right to withdraw their recognition of the court. Australia, he explained, “uses what will best defend their interests and we must use whatever will best defend our rights.”

The Australian government and oil companies operating in the Timor Sea are pushing East Timor to ratify the Arrangement immediately. Many members of East Timor’s future Parliament, however, do not feel that they have enough information to make this important decision. Once this treaty is signed, it can not be easily withdrawn.

Sensitive negotiations require some secrecy, but it is also critical that all information that would not compromise East Timor’s position in the negotiations be made public. Public information, at all stages of the process, must be translated into languages understood by most East Timorese (the text of the proposed Arrangement has been available only in English).

In negotiations, we strongly encourage the East Timorese government to obtain trusted advisors who bring proven expertise in multiple relevant fields. It is also critical for East Timorese to be included as much as possible in all parts of the process to build experience and capacity.

As East Timor celebrates independence, the new nation’s leaders must demonstrate their commitment to transparency, public information, dialogue and democratic process. The oil and gas resources in the Timor Sea belong to all East Timorese and are a symbol of East Timor’s potential for both self-sustainability and justice.
A number of factors will determine the success independent East Timor will have in building and maintaining a society that ensures a level of socio-economic development consistent with international human rights standards for all its people. One of the significant factors is undoubtedly the amount of income that the national economy generates. In this regard, the ongoing struggle between Australia and East Timor over control of oil and natural gas deposits in the Timor Sea is of critical importance.

Despite East Timor’s pending independence, Australia is once again trying to rob the country of its rightful share of these resources just as Canberra shamefully did when it signed the Timor Gap Treaty with the country’s Indonesian occupier in 1989. As was made clear in March at a seminar on the Timor Gap in Dili, the east-west boundaries of the Timor Gap were drawn in a manner that unjustly ensures Australian control of some of the wealthiest deposits, such as Greater Sunrise and Laminaria/Corralina. Were the boundaries to be redrawn in a manner consistent with international law, these deposits would most likely fall under East Timorese control.

While it is impossible to know with certainty how much East Timor stands to earn from revenues from the Gap given fluctuating international prices, it is estimated that $8 billion will flow into the national treasury under the current agreement over the next few decades. Under an agreement consistent with international law, however, East Timor could stand to earn more than $35 billion. While the loss for Australia would certainly be significant, for East Timor the gain could very well prove to be the difference between remaining a poverty-stricken country and one that it is able to satisfy the basic socio-economic needs of all its citizens.

In anticipation of a possible effort by Dili to renegotiate the boundaries, Canberra recently announced its withdrawal from participation in the International Court of Justice and the UN Convention on the Law of the Sea dispute resolution mechanisms in cases relating to maritime boundaries. This change in position directly contradicts the 5 July 2001 Timor Sea Arrangement between Australia and East Timor; it also demonstrates Australia’s unwillingness to allow East Timor a fair division of oil and natural gas reserves in the Timor Sea. Using understated language, Chief Minister Mari Alkatiri called Canberra’s move “a sign of a lack of confidence in us, and an unfriendly act.”

Australia claims that it does not think that what it calls adversarial mechanisms such as the International Court of Justice are proper ones for resolving disagreements between neighbors. Instead, Canberra champions bilateral negotiations. But this is just a blatant ploy to strong-arm a much weaker East Timor into accepting an unjust agreement. Canberra is well aware that Dili is under tremendous pressure to ensure that revenues from the Timor Gap begin flowing into East Timor’s poor treasury as soon as possible and to maintain good relations with its powerful and wealthy southern neighbor. Australia’s hope is that East Timor will have little space to negotiate from a position based on the principles of international law.

The East Timorese Parliament is under a good deal of pressure to sign the Arrangement and convert into a treaty as soon as possible. It must resist such pressures. While Australia claims that signing the treaty would not deny the ability of the two countries to renegotiate the east-west boundaries at a later date, many international legal experts argue that it would. For such reasons, East Timor’s political leaders must insist on ample time for public discussion and independent legal opinions surrounding these matters. At the same time, negotiations with Australia and/or with multinational oil companies must be as transparent and participatory as possible.

East Timorese leaders involved in negotiations over the past two years need to explain the negotiations process and make themselves accessible for public discussions. There are many questions that have not yet been clearly answered, and many matters insufficiently explained. A number of East Timor’s leaders, for example, have long been aware of the unjust nature of the east-west boundaries of the Timor Gap. This begs the question why they only began to raise the issue publicly following the March seminar in Dili.

La’o Hamutuk calls upon the Australian government to demonstrate its commitment to the rule of law and to agree to maritime boundaries through internationally recognized legal channels. At the same time, we call upon the pro-East Timor sectors of Australian civil society and the international solidarity movement to be vigilant and active in defending East Timor’s interests. The contest over the resources of the Timor Gap is a crucial battle in East Timor’s ongoing struggle for self-determination. Canberra played a significant role in derailing East Timorese political independence from 1975 to 1999. As East Timor’s independence is now imminent, Australia cannot be allowed to undermine the new country’s future.
All over the world, governments with oil and gas deposits under the land and sea have contracted with international petroleum companies to find, extract, process and export these petroleum resources. In many of these countries, the people hope that money from the oil and gas will improve their lives, enabling their government to provide better health care, education, employment and other vital services. As in East Timor, people expect oil revenues to facilitate the development of their infrastructure and to improve the quality of their lives.

But oil development does not come without a price. Around the world, the activities of petroleum companies have negative impacts on democracy, the local and global environment, peace, and economic equality. As East Timor travels the road to becoming one of the most oil-dependent countries in the world, we must be careful to minimize these impacts. We must learn from the experiences of other countries, and closely monitor and guide the oil industry here to ensure that we do not repeat bad experiences.

At the end of May, La’o Hamutuk hosted two environmental activists who work with the Oilwatch Network. Oilwatch (http://www.Oilwatch.org.ec) was formed in Ecuador in 1996 by people from tropical forest, oil-producing countries in Latin America, Africa, and Asia. It includes NGOs from nearly every such country affected by oil and gas development who work to monitor and resist the negative effects of the petroleum industry. Esperanza Martinez from Ecuador and Hemantha Withenage from Sri Lanka shared experiences of people around the world with international petroleum companies. They also described what Oilwatch and its partner groups are doing to monitor and resist the problems which come with oil development. Most of the information in this article comes from their presentation.

As Esperanza said, “The tropics are the richest part of the world. We have water, biodiversity and culture, as well as oil and gas. But we are the poorest economically – just like Timor Lorosa’e. The World Bank says our problem is extreme poverty – but we say the problem is the wealthy countries.”

The negative effects of oil development

Oil is found in nearly all tropical areas: in the Middle East, Latin America, Africa and Asia. Among the forest countries where oil has had the greatest impact are Ecuador, Venezuela, Colombia, Brazil and Mexico in Latin America; Nigeria, Gabon, and Cameroon in Africa; Thailand, Indonesia, Malaysia and Burma in Asia.

In most of these places, greed for the oil money has caused foreign invasion, civil war, dictatorship and/or repression. Oil causes and sustains major conflicts, especially where the United States military is involved, such as in Colombia, Iraq and Afghanistan. During the last ten years, there have been civil wars in many oil-dependent areas, including Algeria, Angola, Congo, Indonesia (Aceh), Iraq, Nigeria, Sudan, and Yemen. In 1997, the governments of these countries, which depend on oil for a large fraction of their national income, spent an average of 12.5% of their budgets on the military. For every 5 percent rise in oil dependence, they spent an additional 1.6% on the military. In one example, Peru offered the foreign oil companies more favorable conditions than neighboring Ecuador. In the late 1990s the companies provoked a war between the two countries, and Peru now controls oil-bearing Amazon territory that was formerly part of Ecuador.

Oil development causes major environmental destruction, both local and global. Two hectares of forest is cut down for each well build on land. Exploration and exploitation produce seismic shock, pollution and waste. For every barrel extracted, at least one barrel is spilled. The oil industry has negative consequences for forest and marine animals, and also for human beings, including cancer, leukemia and miscarriages. In countries which produce more oil, child mortality is higher and life expectancy at birth is lower than in other countries. The tropics are more ecologically fragile than the countries where oil is consumed, so we need to take extra measures to protect our forests and seas.

Globally, burning fossil fuels (coal, oil and gas) adds carbon dioxide ($CO_2$) to the atmosphere, causing worldwide climate change which leads to extreme weather (storms, floods, droughts, etc.), rising sea levels, and other disasters. Most scientists and many governments have now recognized this problem, and are gradually shifting from fossil fuels to renewable energy sources. Nearly every government has signed the Climate Change Convention (“Kyoto Protocol”) to protect the global environment. This agreement includes economic incentives for oil consumers and producers to reduce their use of fossil fuels, and provides special compensation for islands like East Timor which will be most affected.
by rising sea levels. Unfortunately, a few of the main energy-consuming countries, including the United States and Australia, continue to oppose these agreements.

**Petroleum Development and Poverty**

In nations which depend on oil, poverty is often widespread. Countries which get most of their income from oil and gas often rank lowest on the “Human Development Index” (HDI) which includes income, health and education measures. The most oil-dependent nations are Angola, Yemen, the Congo and Nigeria, with at least 40% of their national budgets coming from oil. Their HDIs are all in the lowest quarter of the world’s nations.

H Having oil does not mean the people of a country become rich. On the contrary, oil and mineral dependence has often damaged public welfare and reduced the rate of economic growth. Oil brings debt as money is borrowed to pay for oil development, and then oil must be exploited to pay off the debt, creating a vicious circle. Furthermore, the oil companies have the power to blackmail governments, demanding tax exemptions, other financial subsidies, and/or military support. In Ecuador, one U.S. company forced the government to pay them $72 for every barrel of oil, although the government could only sell it for $15 per barrel.

Oil and gas dependent countries are characterized by high child mortality, malnutrition and disease, poor education and illiteracy, corruption, authoritarianism, vulnerability to economic shocks, and high military spending. East Timor already has some of these problems as a result of colonialism, occupation and war—but oil money alone will not solve them. In fact, the experience of other countries show that it often makes them worse.

Because of highly-paid foreign workers, oil disrupts indigenous cultures and can bring inflation, prostitution, HIV/AIDS and other problems. East Timor has had a similar experience with UNTAET international staff and contractors. If many foreign oil workers come here, they will probably stay longer and be less considerate of the local population.

**The Power of the Oil Companies**

Petroleum corporations are often much more powerful than governments, especially when large companies like Phillips or Shell come into small countries like East Timor (See graph, page 5). The companies often determine the choice of the Ministers of Energy, dictate the governments’ environmental policies, and use the military to protect their investments. It is impossible for a small government, even a democracy, to get a fair deal from huge multinational oil companies.

The companies in the Timor Sea prefer to deal with Australia, with whom they have worked for a long time, rather than East Timor. To the companies, East Timor looks revolutionary or unstable. When East Timor negotiates with Australia, the companies will usually support Canberra and use their power to push for a quick, unfair settlement. East Timor must use public support here, in Australia and worldwide to try to balance the negotiations—and perhaps even ask for oil development to be suspended until the boundaries are resolved. Since the boundary question could be settled quickly if the Australia government negotiated fairly and legally, slowing the development could encourage the companies to pressure Australia to seriously discuss the issue.

Once oil exploitation starts, it’s more difficult to control. It is better to act now, and to insist on transparency, democracy and environmental responsibility. But even after exploitation is underway, monitoring and advocacy can help reduce its negative effects.

**What Can be Done**

Although the companies claim they are environmentally and socially responsible, they often lie. They say serious problems are in the past, and that the company has improved—but in reality the problems persist and are repeated. We can learn much from the experiences of other countries—both about the routine (normal) activities of the companies, and about the consequences of accidents or other extreme situations.

One way we can help understand and respond to the companies’ procedures is by monitoring their activities. Monitoring is a tool which can help achieve goals like empowering the people, ensuring the wealth is shared, preserving democracy, and protecting the environment. In a future La’o Hamutuk Bulletin, we will discuss how East Timor’s Constitution and national laws, as well as international law, documents, reports from the companies and other agencies, observation and testing, can be used to monitor what they are doing.

Around the world, local indigenous, environmental and grassroots communities and activists are dealing with these same issues, and often the same companies. They have developed the Oilwatch Network to learn from each other’s experiences and strengthen each other’s campaigns. By using monitoring, advocacy, the courts, and public exposure of information, Oilwatch members have averted environmental disasters and forced oil companies to be more responsible to the people of the countries they work in.

As East Timor enters the community of oil-producing nations, we can benefit from their expertise and experience. Just as the oil companies work globally to maximize their profits, people can cooperate globally to minimize the negative effects of oil company operations. ✤
The Process of Petroleum Exploitation

Crude oil, gas, and “formation water” (very salty water) lie mixed together in the ground or under the sea. The process of finding and extracting petroleum products is the same on land as under water, but under the sea it is more difficult to observe or monitor what's being extracted or discarded. These are the steps:

1. Seismic exploration to find where the oil and gas is under the ground. The companies use compressed air explosions to measure waves in the earth. These disturb animals and plants which live in and under the sea.

2. Exploratory drilling of test wells to determine the amount of oil present. In the sea, this can be done from platforms or ships. It creates waste sand called “cuttings,” which are re-injected into the seabed.

3. If enough oil and gas is found, the companies build extraction wells to remove it.

4. The extracted materials are separated into oil, gas and formation water. The companies use only what they want – if it’s oil, they burn off the gas; if it’s gas, they discard the oil. Sometimes (as at Bayu-Undan over the next few years), the oil and other useful liquids (“condensate”) are extracted and the gas is pumped back into the ground for later re-extraction and use.

5. The oil and gas must be transported (by pipelines, tankers or trucks) to where it is refined and used for fuel or chemicals. If gas is to be moved by ship (as from the Timor Sea to customers in Japan), it must first be liquified, which is usually done on land, although Shell is proposing to build the world’s first floating liquefaction plant in the Timor Sea.

6. The great majority of the world's oil and gas is consumed in the United States, Europe, and Japan. It’s used mostly for cars, to generate electricity, and for other industrial processes.

Choosing Wealth Instead of Oil

In May, the Central American country of Costa Rica decided not to develop its recently discovered oil resources. In his inaugural address, President Dr. Abel Pacheco de la Espriella said “We will compete without destroying nature because, beyond the events of the moment, our rich biodiversity will always be a great wealth and we will preserve it. Before becoming an oil enclave, before becoming a land of open pit mining, I plan to initiate a sustained effort to transform Costa Rica into an ecological power. The true fuel and the true gold of the future will be water and oxygen; they will be our aquifers and our forests. Before we declare peace among ourselves and we declare peace among all nations; now we should declare a peace with nature.”

Costa Rica is requesting that the international community pay for its contribution to reducing global climate change. This new market mechanism could be an opportunity for East Timor; under the Climate Change Convention, it may be possible for East Timor to be paid to delay or not to develop its oil and gas. La’o Hamutuk will explore this concept further in a future Bulletin.
Oil and Gas Fields in the Timor Sea

On 20 May, Australia and East Timor signed a treaty to share the Timor Sea oil and gas. It is not yet in effect, awaiting ratification by both parliaments. This treaty gives Australia revenues which would probably go to East Timor under the Law of the Sea (UNCLOS), which became international law in 1982. (See LH Bulletin Vol. 3 No. 4.)

The map below shows the main oil and gas fields in the Timor Sea belonging to East Timor, Australia and Indonesia.

Maritime economic zones are shown in dashed boxes:

- **JPDA** the Joint Petroleum Development Area is derived from the illegal 1989 Timor Gap Treaty between Indonesia and Australia. Under the Timor Sea Treaty (TST), the JPDA is shared 90% East Timor and 10% Australia. Under current international law principles, it would be 100% East Timor.

- **EEZ** the Exclusive Economic Zone would be East Timor’s under current law. The TST gives it to Australia. Zones which belong to a particular country without question are labelled as such.

**Producing and future oil and gas fields** are shown as circles, next to the **underlined field name** or connected by an arrow. Larger circles have more resources.

The heavy solid line is the Australia-Indonesian seabed boundary, negotiated in 1972. Although this line is based on outdated principles and closer to Indonesia than to Australia, it is still in effect.

The lighter dashed line is the **median line**, halfway between the shorelines of Australia and Indonesia or East Timor. If current Law of the Sea principles applied, this would be the seabed boundary.

There are many oil and gas fields in the **Browse Basin** south of West Timor. Because of the 1972 treaty, these belong to Australia, although some are closer to Indonesia. Since 1931, Australia has controlled four tiny uninhabited islands called Ashmore Reef. As a result, Australia’s economic zone extends close to Roti and West Timor, including many oil and gas fields.
Four-Fifths of Australia’s Gas is Outside the Timor Sea

The oil and gas in the Timor Sea are the only significant petroleum resources available to East Timor, and East Timor’s future depends on these revenues.

Australia, on the other hand, has four times as much gas in other parts of its territory, as shown on the map below. Circles show the location of Australia’s “Proven and Probable” (2P) reserves of natural gas, where gas underground or undersea could be extracted and sold. The size of each circle represents the amount of gas in Trillions of Cubic Feet (Tcf). Oil reserves are not shown.

Australia has about 110 Trillion cubic feet (Tcf) of natural gas, with a value of approximately U.S. $850 billion ($850,000,000,000). This could produce about $400 billion in government revenues. Australia has much more gas than it can consume domestically, so most Timor Sea gas will be exported to Japan.

One-fifth of Australia’s gas, 22 Tcf, lies under the Timor Sea. Some is in Australian territory and some in the “Joint Petroleum Development Area” shared between East Timor (90%) and Australia (10%) under the Timor Sea Treaty. The Treaty gives revenue from 4.7 Tcf of Timor Sea Gas to East Timor and 17.5 Tcf to Australia. If East Timor’s full maritime boundaries were applied instead, 7.9 Tcf of this 17.5 could belong to East Timor.

If East Timor’s legal maritime boundaries were applied, East Timor could gain 7.9 Tcf (10% of Bayu-Undan and 82% of Sunrise) given to Australia under the Timor Sea Treaty.

Source: Australian Department of Industry, Science and Resources
Company Shares of Timor Sea Oil and Gas Fields

Each bar represents the amount of oil and gas resources in each field under the Timor Sea (22 Tcf circle on Australia map, previous page). Because it includes both gas and oil, the chart shows energy content in “Barrels of Oil Equivalent” (BOE). One trillion cubic feet (Tcf) of gas is equivalent to about 175 million BOE. Within each bar, each rectangle colored with a different pattern shows how much of the oil and gas from that field has been purchased by each company, as indicated on the right. Most of the oil in the Elang-Kakatua and Laminaria fields has already been extracted, and the bars show only the amount remaining.

The money to be made from Timor Sea oil and gas has attracted many international petroleum companies to East Timor’s neighborhood. The graph above shows which ones have purchased rights to sell the oil and gas. Phillips Petroleum (USA), Royal Dutch Shell (Great Britain and the Netherlands) and Woodside Australian Energy have the largest shares, and they are operating the oil industry here. Below and on the next few pages, we give some basic information about these and other companies which own gas and oil resources in the Timor Sea.

Annual Revenues of Governments and Oil Companies

Multinational oil companies are huge and powerful institutions, larger than many governments. One way to evaluate their power is to look at the amount of money involved in their operations. The graph below shows how much money selected governments and oil companies received (revenues, sales and taxes) during 2001. For East Timor and the United Nations, the figures are from their proposed budgets for 2002. The United Nations number includes operations, administration, and peacekeeping everywhere in the world.
**Timor Sea Oil Companies at a Glance**

The following brief summaries of basic information and history describe the international oil companies with the largest involvement in oil and gas developments in the Timor Sea. We have tried to make the information accurate, but inconsistencies in reporting and availability of data have required some estimates and approximations.

- Money is given in millions of U.S. dollars, according to each company’s Annual Report for 2001. “Assets” is the amount invested in the company, “revenues” is how much they received in 2001, and “profits” is how much was paid to the shareholders (owners) of the company during 2001.
- Reserves are oil and gas still in the ground, estimated in millions of Barrels of Oil Equivalent (mmBOE), from annual reports and other sources. Unless marked as proved (1P), figures are Proved and Probable (2P), indicating a 50% likelihood of containing this amount of energy. One BOE will sell for approximately U.S. $20.
- “Reserves in Timor Sea” shows the amount each company owns of both East Timorese and Australian parts of the Timor Sea oil and gas deposits.
- The “Timor Sea part of reserves” percentage is an estimate of what part of each company’s worldwide total gas and oil reserves is in the Timor Sea. It indicates approximately how important the Timor Sea is to the company’s future.

**Phillips Petroleum**

*Where based United States*

*Year founded 1917*

*Number of employees 38,700*

*Assets $35,000*

*Revenues $26,800*

*Profits $1,661*

*Where do they get oil and gas? USA, Alaska, North Sea, Cameroon, Nigeria, Somalia, China, Kazakhstan...*

*Reserves worldwide (P) 8,700*

*Reserves in Timor Sea (2P) 1,200*

*Timor Sea part of reserves 7%*

Phillips Petroleum operates and owns 58% of the Bayu-Undan project and some smaller fields in the JPDA, and is also a 30% owner of Sunrise. In March 2002, Phillips announced plans to sell 10% of Bayu-Undan to Tokyo Electric Power Company and Tokyo Gas, two Japanese companies who will buy most of the gas from the field beginning in 2006.

Phillips began dealing with the Suharto regime in 1968 and, in 1991, was in the first group of companies to sign contracts for Timor Gap oil exploration during the Indonesian occupation. The company continued to pay millions of dollars in royalties to Indonesia even after the August 1999 referendum in East Timor. During the UNTAET period, Phillips fought hard (with support from the U.S. government) to limit East Timor’s efforts to tax its operations. The company has invested approximately $1.6 billion in Bayu-Undan. Phillips is pushing for a pipeline from Bayu-Undan to Darwin, and hopes to include gas from Sunrise in this pipeline. Initially, they are selling the liquid fuels from the Bayu-Undan field, and pumping the “dry gas” back underground for later use.

Phillips will merge with Conoco later in 2002 to become the world’s seventh-largest oil company. Phillips works in all aspects of the oil and gas industry, from exploration and exploitation to refining and retail sales. For the past few years, Phillips has been shifting away from high-risk explorations (risk can come from doubt about oil resources as well as political uncertainty). At the same time, the company has been buying up smaller oil companies.

Phillips’ Board of Directors includes two people who directly supported Indonesia’s occupation of East Timor:

**J. Stapleton Roy** was U.S. Ambassador to Indonesia from 1995 to 2000 and did little to support East Timor’s struggle for independence. During the destruction of September 1999, he explained U.S. inaction by saying “The dilemma is that Indonesia matters and East Timor doesn’t.” Roy, who now manages Henry Kissinger’s consulting firm, joined Phillips’ board in 2001. He is also on the Board of Freeport-McMoran Copper and Gold, a U.S. mining company deeply implicated in human rights violations in West Papua.

**Lawrence Eagleburger** was on Phillips’ Board from 1993 to 2001 and remains their special advisor on international affairs. In 1975, as U.S. Deputy Secretary of State (under Henry Kissinger), Eagleburger helped conceal Indonesia’s use of U.S. weapons to invade East Timor. As Secretary of State in 1992, Eagleburger supported increasing U.S. military aid to Indonesia just after the Santa Cruz massacre. He is also on the Board of Directors of Halliburton, an oil technology company headed until 2000 by U.S. Vice President Dick Cheney.
Royal Dutch Shell owns 27% and operates the Greater Sunrise field, and has shares in several other Timor Sea oil and gas fields, including Laminaria. It also owns 50% of the large Evans Shoal gas field and 35% of Blacktip, in the Australian part of the Timor Sea, as well as operating elsewhere in Australia. Shell has purchased more Timor Sea oil and gas than any other company. It plans to liquefy the Sunrise gas at a floating platform in the middle of the sea, since it wants to send the gas north and east, rather than to Australia. This would be the first such facility anywhere.

Shell is the second largest oil company in the world, with exploration and production on every continent. Shell signed contracts for the occupied Timor Sea in 1991, exactly 100 years after it first became involved in Indonesia (Dutch East Indies). The company has a long history of support for colonialism and repressive regimes, including the German Nazis until 1936.

During the 1980s, Shell was the target of worldwide protests over its support for the racist apartheid regime in South Africa. More recently, the company has come under fire for collaborating with a dictatorship and human rights violations in Nigeria, Africa’s most populous country. Shell is accused of complicity in the 1995 execution of Nigerian playwright Ken Saro-Wiwa, an environmental activist who was hanged along with eight others for protesting oil exploration. In Europe, environmental NGOs have campaigned against Shell’s environmental practices, including dumping toxic waste from its platforms in the North Sea.

Woodside Australian Energy operates the Laminaria-Corallina oil field in the disputed area just outside the JPDA, and owns 45% of that field. In 2000 and 2001, Woodside’s revenues from that field totaled U.S.$1.1 billion, 38% of the company’s income. Woodside now owns 33.4% of Greater Sunrise, after selling off 6.5% last year.

Woodside was one of the first purchasers of Timor Sea contracts, in 1991. The company originally supported Phillips’ proposal to build a pipeline to Darwin, but now supports Shell’s preference for a floating facility, with Japan as the principal customer.

Woodside is an Australian company, with a minority of its operations in Asia and Africa. Most of the company’s holdings are off the Northwest coast of Australia, although most of its gas is sold to Asia, with some to the Australian market.

Shell attempted to purchase Woodside in 2001, but was prevented by the Australian government which felt that too much foreign ownership of Australia’s energy sources could endanger their security. Nevertheless, Shell owns 34% of Woodside, and three Shell executives sit on Woodside’s Board of Directors.
Santos

Where based: Australia  
Year founded: 1964  
Number of employees: 1,713  
Assets: $3,100  
Revenues: $890  
Profits: $272  
Where do they get oil and gas?  
Australia, Papua New Guinea, Indonesia  
Reserves worldwide (2P): 724*  
Reserves in Timor Sea (2P): 770  
Timor Sea part of reserves: 50%*

Santos, Australia’s largest gas producer, has been shifting its priorities from on-shore production to the larger reserves offshore. Santos is heavily invested in the sea off Australia’s northwest coast, mostly in Australian waters. The company owns and operates the Petrel-Tern fields near Darwin, and also has a 12% share of Sunrise and pieces of small fields in the JPDA. It entered the Timor Sea in 1991, during the Indonesian occupation of East Timor. In July 2002, Santos took over from Shell as operator of the large Evans Shoal gas fields in the Australian part of the Timor Sea, of which it owns 40%.

* Santos’ Annual Report gives a number for the company’s total reserves worldwide which is less than the amount we believe they own in the Timor Sea. Since this is impossible, our figure for how much the Timor Sea represents of their total is a guess.

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Osaka Gas

Where based: Japan  
Year founded: 1897  
Number of employees: 9,264  
Assets: $10,600  
Revenues: $7,683  
Profits: $291  
Where do they get oil and gas?  
Indonesia, Brunei, Australia, Malaysia  
Reserves in Timor Sea (2P): 310  
Timor Sea part of reserves: 11%  

Osaka Gas supplies gas to customers in the second-largest metropolitan area in Japan, representing about 32% of Japan’s total gas consumption. In an effort to diversity its sources of gas, Osaka purchased 10% of the Greater Sunrise and Evans Shoal fields in 2000. However, Osaka remains primarily a distribution and sales company, and is not directly involved in exploration and exploitation operations.

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Inpex

Where based: Japan  
Year founded: 1966  
Number of employees: 227  
Assets: $238  
Revenues: $1,256  
Where do they get oil and gas?  
Mostly Indonesia, also Australia and 13 other countries  
Reserves in Timor Sea (2P): 130  
Timor Sea part of reserves: 4%  

Inpex was formed by Japanese energy companies to buy oil and gas from overseas, initially from Indonesia but recently expanding worldwide. They are responsible for more than one-quarter of all gas exported from Indonesia to Japan. The company first entered the Timor Gap in 1992, and now owns 11.7% of Bayu-Undan, as well as shares in some smaller fields.

Inpex also owns and operates the Abadi (Masela) field in the Indonesian part of the Timor Sea, east of East Timor. Abadi is not included in the graphs in this LH Bulletin.

Half of Inpex is owned by the Japan National Oil Company, with the remainder divided among twenty other industrial and energy companies and banks, with the largest shares held by Japan Petroleum Exploration, Mitsubishi, and Mitsui Oil Exploration. Until last year, Inpex was known as Indonesia Petroleum Ltd.

A Kerr-McGee nuclear weapons plant in Oklahoma, USA, was implicated in the 1974 killing of employee Karen Silkwood as she was about to speak to the media. The company was charged with numerous instances of radioactive pollution, but has since left the nuclear weapons business.

Kerr-McGee recently signed agreements with Morocco to explore for oil off the coast of Western Sahara. This African territory is illegally occupied by Morocco in defiance of the United Nations, similar to Indonesia’s occupation of East Timor. Last January, the UN Legal Office declared that “exploration and exploitation activities would be in violation of … international law principles.” It remains to be seen if Morocco and Kerr-McGee will respect that declaration, or if Morocco will permit the long-delayed referendum on independence to take place.

Eni, the world's sixth-largest oil company, owns Agip, which bought British Borneo in 2000. In 1991, British Borneo purchased 6.7% of Bayu-Undan; they later bought 30% of Blacktip. Eni is purchasing more of Bayu-Undan, and will soon own 12.2%.

The company has oil and gas developments all over the world, and their investment in the Timor Sea is a small part of their total operations.

PetroTimor claims rights to oil and gas in virtually the entire JPDA based on a 1974 contract with Portugal. Today, its claims are not recognized by any government. (See La’o Hamutuk Bulletin Vol. 3, No. 4).

PetroTimor is part of Oceanic Exploration, a tiny company which owns a few small businesses in different fields. Oceanic is owned by General Atomics, a U.S. nuclear technology company owned by the Blue family. One-fifth of PetroTimor belongs to East Timor.

In addition to advocating a pipeline to East Timor and providing legal advice for East Timor to claim its full maritime boundaries, PetroTimor is suing Phillips in Australian court for its expropriated property in the JPDA.

With fewer than 20 employees in several businesses, Oceanic Exploration has no capacity to develop East Timor's oil resources. Rather, the company is hoping to extract money from companies currently working on Timor Sea oil.
The South East Asia Australia Offshore Conference (SEAAOC) discussed offshore oil and gas mining in the region including Australia and South East Asia. This conference was held for oil companies and others in the industry to promote offshore technology development. Australia’s oil and gas interests dominated the conference, and one area of focus was the Timor Sea oil and gas fields.

The conference, held 17-19 June 2002 in Darwin, Australia, was the eighth such conference organized by the Institute for International Research, an Australian business which organizes conferences on many subjects. More than 300 people attended, including representatives of the Australian and East Timorese governments and the petroleum industry. Adriano Nascimento from La’o Hamutuk, representing the Independent Information Center on the Timor Sea (CIITT, an East Timorese civil society group formerly known as the Timor Gap Working Group), and Australian activists who share concerns about Timor Gap issues also attended. CIITT participated to increase its knowledge about Timor Sea oil developments and to develop communications with companies, government officials, and others working in this area.

The Timor Gap was one of the main topics in presentations by representatives of the Australian government, the East Timorese government, and oil companies. Each of these groups gave presentations on the Timor Gap based on their roles and interests.

The Australian Government

In the opening speech for the conference, the Northern Territory government representative, Chief Minister Clare Martin, raised two main issues: the Timor Sea Treaty signed on 20 May 2002 and the gas pipeline.

According to Martin, the NT government and people have the perspective that the natural gas in the Timor Gap is key to economic and petroleum development for Australia and will make Darwin the fourth largest gas market in Australia.

The Chief Minister stated to conference participants that Australia’s hopes lie in the signing of the Timor Sea Treaty for the shared exploration of oil and gas by Australia and East Timor. From her perspective, the Treaty is the best first step towards developing the Australian petroleum industry.

Pushed by this interest, this Northern Territory leader asked for speedy ratification of the Timor Sea Treaty by the parliaments of both countries. She said that ratifying the Treaty would give legal and commercial security to the companies investing in the Timor Gap.

The Australian government feels that the 90% of production revenues from the joint area (JPDA) under the Treaty is fair compensation for East Timor. For that reason, according to Martin, ratification of the Timor Sea Treaty will strengthen the friendly relationship between the two nations and peoples. Martin ignored the fact that the treaty also gives Australia control over large areas that should be East Timorese under international law. Regarding the gas pipeline plans, Martin said that the Australian government – especially the Northern Territory government – sincerely hopes that the gas pipeline will be built to Darwin, giving employment opportunities to the Australian people and increasing investment, business, and technological renovations in Australian.

The Australian government, especially that of the Northern Territory, is certain that if gas from the Bayu-Undan and Sunrise fields are brought to Darwin for processing, this would:

- Diversify the national economy;
- Create jobs for around 10,600 workers; and
- Increase national revenues by US$8 million for the duration of the project

Aside from the points above, gas from Bayu-Undan and Sunrise are also expected to bring:

- Opportunities for new businesses and training programs
- A decrease in the dependency of the Northern Territory government on the central government, guaranteeing the Northern Territory government’s ability to support its own social and development programs.
- Annual revenues of US$60 million of which US$55 million will go to the national government.

The East Timorese Government

Prime Minister Mari Alkatiri told conference participants of the East Timorese government’s position on the Timor Sea Treaty, maritime boundaries, and the status of oil and gas fields.

Alkatiri said the Treaty he signed with John Howard is extremely important and beneficial for the relationship between the two nations. In his opinion, the Timor Sea Treaty strengthens the commitment to mutual understanding between the two nations. He promised conference participants that the Treaty would be ratified quickly in East Timor.

The Prime Minister stated that maritime boundaries must be resolved based on international legal principles recognizing East Timor’s national sovereignty, and he will personally raise the issue of maritime boundaries with Australia.

According to Alkatiri, the East Timorese government will continue discussions regarding the status of certain oil and gas fields such as Laminaria and Sunrise. East Timor has full rights to Laminaria and Sunrise if maritime boundaries were resolved using international law as laid out in the UN Convention on the Law of the Sea (UNCLOS).

Alkatiri also addressed the oil companies directly, proclaiming the Joint Petroleum Development Area “open for business.” With this, he pushed petroleum companies to continue their work in oil and gas fields in the Timor Gap.

The Petroleum Companies

In the conference, four oil companies gave their perspectives on issues relating to the Timor Gap. They covered many issues, including the Timor Sea Treaty, taxation, and the gas pipeline.
They expressed that the ratification of the Timor Sea Treaty is an urgent matter which must be carried out by both Australia and East Timor. The Treaty’s ratification is a key agenda item for the companies because only with ratification will they have a legal framework and commercial guarantee for continuing their mining activities and investing in Timor Gap.

Aside from the issue of ratification, the petroleum companies raised the uncertainty of how much they would be taxed. The East Timorese government plans to instate higher levels of taxation than the Australian government. The oil companies called for the Australian and East Timorese governments to unify their taxation policies in the Timor Gap.

Phillips Petroleum advocated a gas pipeline to Australia as the most technologically sound approach. Although East Timor is closer to the gas fields, Phillips said a pipeline to Australia is more feasible since the ocean floor is not as deep.

**Conclusion**

The Timor Sea is an arena of strategic struggles using political and economic strength to promote different interests.

For the Australian government, the Timor Sea is an opportunity that must be pursued using all political, economic and technological strength available. This nation very much hopes for a legal framework to facilitate employment opportunities, investment, national revenues, business, and technological renovations. With this reasoning, Australia is pressuring its small neighbor to quickly ratify the Timor Sea Treaty. Australia is also using its political strength by withdrawing from the International Court of Justice and the UN Convention on the Law of the Sea arbitration processes for maritime boundary resolution.

Economically, Australia is using its economic strength to offer a lower tax rate to oil companies exploring petroleum in the Timor Gap. This policy will make it difficult for East Timor to finalize its own tax policy. The petroleum companies will likely side with Australia, which is offering them a better deal than East Timor. Also, the technological reasoning from Australian and Phillips Petroleum for building a pipeline to Australia does not help East Timor.

For East Timor, the substance of the Timor Gap issue is the recognition of its independence and national sovereignty by the international community, particularly by its two neighbors, Australia and Indonesia. Independence means that East Timor owns its national wealth, and has the right to explore and maintain that wealth in accordance with national and international legal principles. National sovereignty means that East Timor has territorial rights over land, water and air in accordance with national and international laws.

As a small and poor nation, East Timor must rely on moral strength, including international solidarity, to balance the advantages of its powerful neighbor Australia. East Timor must call on the international community to respect East Timor as an independent and sovereign nation with its own territorial rights based on international law.

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*Just ratify it, and leave the rest to us!*
La’o Hamutuk Tells the Australian Parliament:
The Timor Sea Treaty Should Not be Ratified in its Current Form

The Joint Standing Committee on Treaties (JSCT) of the parliament of Australia has been accepting submissions (testimony) and holding public hearings regarding the Timor Sea Treaty. The treaty, which has not yet be ratified in either country, specifies how the oil resources in the Joint Petroleum Development Area will be managed.

More than 70 organizations and individuals sent submissions, including four from East Timor: LAIFET Labor Advocacy Institute, NGO Forum, CIITT (Independent Center for Timor Sea Information) and La’o Hamutuk. People from the latter three organizations traveled to Darwin on October 3 to give oral testimony at a JSCT hearing. The following is excerpted from La’o Hamutuk’s written testimony, submitted in July by Adriano do Nascimento.

Dear Honourable Members of the Parliament of Australia,

The East Timor Institute for Reconstruction Monitoring and Analysis hereby submits information to your Committee for consideration as you discuss the Timor Sea Treaty between Australia and East Timor. We believe that this may be the most important issue for the future of our newly-independent country. We encourage the Australian Parliament to think about your new neighbour to the north, in addition to your own national interest, as you consider ratification of the treaty.

The treaty should not be ratified in its current form

We are encouraging both the Australian and the East Timorese parliaments not to ratify the treaty that was signed in Dili on 20 May 2002 by Prime Ministers John Howard and Mari Alkatiri. We believe that the treaty was negotiated too hastily, in an unbalanced environment, and that it contains serious flaws. For a variety of historical, moral, legal and pragmatic reasons explained below, we urge the Standing Committee to ask the Australian government to re-enter negotiations with the government of East Timor, with the goal of quickly arriving at a revised agreement which better protects the interests of both Australia and East Timor.

The Exchange of Notes from 20 May provides sufficient legal basis for development to continue without being interrupted or delayed even if renegotiating the treaty takes some time. This was also the situation during the transitional period. In any case, there are outstanding fiscal, tax and other issues which are not covered even by the currently proposed treaty. We are also concerned that there are no guarantees that East Timor will receive its share of employment, downstream benefits, and other income which will come from the oil and gas development. We do not want to rely forever on handouts and revenues from our resources, but also to develop the jobs, skills, workforce and infrastructure that will help us be truly independent and self-sufficient.

We hope that a renegotiated treaty, supplemental amendments, or another exchange of notes, will include adequate protection of East Timor’s sovereignty, boundaries, environment, democracy and economic interests. The current document results from undue pressure by a large, established, developed nation against a small, brand-new, underdeveloped country. Frankly, we are shocked that a country with the democratic and legal traditions of Australia would abandon fairness and the rule of law to coerce our Prime Minister to sign an unfair agreement within hours of our becoming independent.

The revised treaty should encourage expeditious resolution of the seabed boundaries

Under the current proposed agreement, Australia has no incentive to enter negotiations to determine the seabed boundaries between Australia and East Timor. As you know, there has never been a boundary delimitation between our two countries. We believe that it is important for our relationship to define our economic zones expeditiously. Furthermore, we are concerned that the revenues from the gas and oil may be exhausted, with Australia receiving far more than its legal share, before the boundaries are resolved. Since the Treaty (Article 22) anticipates it could take more than 30 years to delimit the boundaries, our concern is well-founded.

Consequently, we are suggesting that revenues from oil and gas fields which are within East Timor’s Exclusive Economic Zone under Law of the Sea principles (that is, which lie north of the median line between the two countries and within 200 nautical miles of East Timor’s shoreline), but which are assigned to Australia by the interim JPDA boundaries in the 20 May treaty, be placed in escrow until the boundaries are determined.

The entire Joint Petroleum Development Area (JPDA) lies north of the median line, so all of its revenues belong to East Timor under international law. The 10% which would go to Australia under the proposed Timor Sea Treaty should go into trust. More importantly, the Laminaria-Corallina, Buffalo, Bluff, Buller and Greater Sunrise oil and gas fields are north of the median line and lie within East Timor’s Exclusive Economic Zone under United Nations Convention on the Law of the Sea (UNCLOS) principles. Since settlement of the boundaries could award some or all of the revenues from this field to either of our countries, the revenues from these fields should also be put in trust. By safeguarding the revenues in this way, both countries can be assured that their rights are protected, and that both sides will make good-faith efforts to agree on maritime boundaries expeditiously.

We are also concerned that the unitisation agreement (“Annex E”) for Greater Sunrise does not provide sufficient protection that the percentages will be changed, either for the future or retroactively, after the boundaries are decided. It divides the revenues 18.1% (90% of 20.1%) for our country and 81.9% for yours, which is approximately based on the portion of the gas field which lies inside the JPDA. The JPDA border is a historical artefact with no relevance for East Timor’s maritime boundaries. When those boundaries are agreed, they will almost certainly be in a different place than the current JPDA. The agreement on Sunrise unitisation must ensure that the percentage division between our two coun-
tries will be adjusted to be consistent with the boundaries, and that revenues collected both before and after settling the boundaries are apportioned between our countries as the location of the boundary would dictate, regardless of the illegitimate history of the ZOCA and JPDA borders. The agreement should also state that settlement of the boundaries will take precedence over the current inherited JPDA borders.

Many people here see Australia’s continued release of exploration permits in contested areas adjacent to the JPDA as an indication of Australia’s true motives.

Australia’s recent support for East Timor has not always been the case

Since 1999, the Australian government has supported East Timor’s political and human rights, and we appreciate that. We are grateful to John Howard and Alexander Downer for encouraging Indonesian President Habibie to allow our people to vote on self-determination, and we are grateful for Australia’s leadership of InterFET and your continuing military and economic aid to guarantee East Timor’s transition to independence.

But we are not confident that support from our neighbour to the south will persist indefinitely. We have not forgotten Australia’s abandonment of our people to Japanese occupation in 1942, your government’s encouragement of Indonesia’s invasion of our country in 1975, and your support for Indonesia’s bloody occupation of East Timor for more than twenty years, as recently confirmed by releases of official documents and the Senate Inquiry.

We are particularly troubled when we recall Australia’s negotiation, signature and ratification of the illegal 1989 Timor Gap Treaty with Indonesia, which implemented a bilateral agreement to steal resources which rightfully belonged to our people. When we recall the Australian government’s 1975 claim that an independent East Timor would not be economically viable, which was used as a reason for Australia to support Indonesia’s invasion of our country, our anxiety increases.

Australian humanitarian aid for East Timor since 1999 has been generous, amounting to nearly A$200 million, and your contribution to InterFET and PKF may be as much as A$2 billion. But this amount pales in comparison with the more than A$40 billion in government revenues which will result from the oil and gas fields north of the median line between our two countries. Under the proposed treaty, more than half of these revenues – which belong to East Timor under international law – would be taken by Australia.

If this treaty is implemented but the boundaries are not resolved expeditiously, Australia will be stealing dozens of times as much from East Timor in oil and gas revenues than you have given us in aid and military support. In fact, from 1999 to 2001, Australia received revenues from the relatively small Laminaria-Corallina oil field (which is in East Timorese territory under international law) which are more than three times the cost of Australian humanitarian aid to East Timor during the same period. And since 1989, during the Indonesian occupation and the UN transition period, Australia received more than A$1 billion additional from the JPDA alone.

Although East Timor is now politically independent, it appears that Australia is trying to achieve by one-sided negotiation and defiance of international law what Indonesia could not accomplish by brutal military occupation.

We are confident that the Australian people, through their elected Parliament and the Joint Standing Committee on Treaties, do not support this blatant grab of our new nation’s heritage, and we urge your government to return to the law-abiding community of nations by reinstating cooperation with UNCLOS and ICJ processes for settling maritime boundary disputes. We encourage you to give East Timor confidence that Australia intends to negotiate these boundaries in good faith by placing the disputed revenues in escrow until they are resolved.

The rule of law should be practiced as well as preached

For more than four centuries, East Timor has been ruled by foreign powers, under autocratic, corrupt regimes that violated our human and political rights for their own political, economic and personal purposes. We struggled against Portuguese colonialism and Indonesian occupation so that we could govern ourselves in a fair, just and democratic manner. We struggled to overcome corruption, collusion, nepotism, repression, arbitrary power, and the use of public resources for private gain.

Now that we have achieved our political freedom and independence, we are learning to follow constitutional, democratic procedures in the relationship between our government and our people. Primary among these is the rule of law – that government consistently applies certain principles which have been agreed upon by the society as a whole, through their elected representatives. No individual’s greed is allowed to transgress these principles, regardless of how much power they have, where they were born, or who they are related to. Although we have long believed in the rule of law, we have never been able to practice it until now.

Throughout history, strong, powerful, rich countries have often used their power to unfairly exploit poor countries and steal their resources. We know this only too well from our own experience. But in recent years, with the rise of political freedom and the decline of colonial empires, nations have committed themselves to prevent such exploitation in the future. By relying on international conventions and treaties, all peoples should expect to be treated fairly. The same rules are supposed to apply to the large and the small, the rich and the poor, the white and the black. This legal protection is especially important to countries like East Timor, with little experience in self-government and almost no capability to influence our larger and more powerful neighbours. Although Australia and East Timor now sit at the negotiating table as two sovereign governments, there is still an imbalance of negotiating flexibility, economic power, financial expertise and diplomatic experience.

Australia and others in the international community consistently encourage East Timor’s new government to implement democracy, the rule of law, transparency and safeguards against corruption as we develop our governmental structures and practices. We appreciate that encouragement. At the same time, Australia is not practicing what you are preaching. When your country withdrew from legal processes for resolving maritime boundary disputes, you taught us the opposite message – that when the booty is large enough, the legal principles go out the window.
Your government’s National Interest Analysis on withdrawal from UNCLOS arbitration, given to this committee on 18 June, says the same thing in more polished language: *This action was not made public prior to it being taken to ensure the effectiveness of the declaration was maintained. Public knowledge of the proposed action could have led other countries to pre-empt the declaration by commencing an action against Australia in relation to sea boundary delimitation that could not be made once the declaration under article 298(1)(a) of UNCLOS was made.*

In other words, your government acted secretly and urgently to prevent East Timor from utilizing our rights under international law.

The NIA goes on to say:

> The Government’s view is that maritime boundary disputes are best resolved through negotiation, not litigation. ... Compared to other countries, Australia, as an island continent, has some of the longest maritime boundaries in the world. It has maritime boundaries with many countries and the Government is concerned that every endeavour should be made to reach an agreed resolution of any maritime boundary disputes through peaceful negotiation.

In other words, the imbalance in negotiating power between Australia and East Timor should be exploited fully to advance Australia’s economic interests. East Timor should have no recourse to the rule of law.

Australia’s withdrawal from the compulsory dispute resolution mechanisms of UNCLOS and the ICJ may prevent us from receiving the guidance and rulings of internationally recognised avenues for reaching an arbitrated settlement if negotiations cannot reach agreement. This is the first time since 1975 that Australia has limited the jurisdiction you accept from the International Court of Justice. We encourage Australia to reinstate your willingness to accept all revenues from the ICJ and provide for our people.

Australia’s withdrawal from arbitration, given to this committee to fully resolve boundary issues.

Australia’s lesson in realpolitik will help East Timor learn that international relations is a cold, cruel world, where actions speak louder than words and greed is more important than principle. But the economic and political cost to our people is unacceptably high.

**East Timor and Australia’s future security depends on a fairer treaty**

East Timor’s future stability and survival as a democracy, as well as the ability of our people to achieve a tolerable standard of living and public services, depends on the money from the oil and gas resources. Although the Timor Sea disputed area contains virtually all of East Timor’s potential exportable resources, Australia has four times as much oil and gas elsewhere, in territory which is unquestionably Australian under international law. Do you want to steal our future to fatten your wallet?

As you know, our new nation is just beginning to recover from a quarter-century of brutal Indonesian military occupation, climaxied by the massive destruction of “Black September” 1999 which ended when Australia and InterFET finally came to our support. We are creating our democratic institutions, our infrastructure, our social services and our economy from virtually zero. East Timor currently relies on international donors for survival, an unhealthy and short-term situation. We depend on our natural resources – particularly our oil and gas – to provide the means to build our nation and provide for our people.

Australia, working in concert with the oil companies, has exploited our current precarious situation to force East Timor to sign an treaty which jeopardizes our economic and territorial rights.

At present, 40% of the JPDA revenues that Australia accepts as belonging to East Timor are being held in escrow, effectively as ransom to pressure our country to ratify the 20 May Treaty. We see this as unjustifiable coercion, exacerbating the imbalance that already exists between our two countries. We ask Australia to release this money, so that East Timor will be less dependent on aid in this critical period. Both countries have agreed that East Timor is entitled to 90% (not only 50%) of the JPDA revenues, and this agreement should apply to revenues not only since 5 July 2001, but actually to all revenues from the JPDA since 1989. A reasonable compromise could be to begin the 90% share for East Timor as beginning when we voted for independence in August 1999, a process recognized by both Australia and Indonesia.

We believe that the era of empire and colonisation is over – and we encourage Australia to bring its conduct into line with 21st century ideas of national and human rights and ethical behaviour.

Around the world, the phenomenon of “failed states” is growing, with horrendous consequences for the citizens of these nations. Their neighbours also feel the impact, as they cope with floods of refugees, providing life-saving emergency assistance, and the need for humanitarian military intervention.

We are confident that the Australian Parliament does not want East Timor to fail – that you understand the disaster this would be for both our countries. But without economic security, and without the ability to rely on the rule of law both within our country and internationally, this is a serious risk.

East Timor is a new nation, developing our economy and democratic traditions. We have much to learn from Australia’s long and rich heritage of freedom, democracy and economic development. But we also see, as both the 1989 Timor Gap Treaty and the 2002 Timor Sea Treaty demonstrate, that lust for money, especially when the prize is large enough, can override legal and democratic principles.

Please help East Timor enter the community of law-abiding nations, and return Australia to that community. And please help ensure our economic and democratic development, as well as the hard-won sovereignty of our boundaries. We place our trust in the people of Australia, and in this Joint Committee, and are confident that ethical practices and the rule of law will place limitations on greed and power. That is the best way to initiate a mutually prosperous and friendly relationship between two democratic nations on both sides of the Timor Sea. ❍
December 2002
Chronology of Oil and Gas Developments in the Timor Sea

Portuguese period 1500s-1975

1893: First non-Timorese explorations of on-shore oil resources in Portuguese Timor, in Laclubar, Manatuto, with small-scale exports.

1956: Australian-based Timor Oil Ltd. begins off-shore explorations, to be joined by other companies over the next twelve years.

1956: Portugal claims sovereignty over the seabed in accordance with median line principles which were later ratified in the 1958 Geneva Convention. Australia rejects the claim, with competing assertions of its territory.

1970-1972: Several Australian oil companies conduct explorations near and off the south coast of Portuguese Timor

1970: Australia and Indonesia begin negotiations on seabed boundaries, ignoring Portuguese objections that the seabed should split midway between Timor and Australia. Australia and Indonesia signed treaties “Establishing Certain Seabed Boundaries” on 18 May 1971 and 9 October 1972, which came into effect in November 1973. These treaties were based on the continental shelf principle, which was biased in favor of Australia. Because Portugal did not participate, the other two countries could not complete the line between Portuguese Timor and Australia, creating the “Timor Gap.”

1974: Portugal grants exclusive exploration permits in the Timor Sea to Oceanic Exploration/PetroTimor, a U.S. company. The permit area covered 60,700 square kilometers extending from a point near the south coast of Portuguese Timor to the median line with Australia. Australia objects.

1974: Sunrise Gas field is discovered, although political and other issues delay its development until recent years.

17 Aug 1975: Australian ambassador to Indonesia Richard Woolcott cables his government: “…closing the present gap in the agreed sea border … could be much more readily negotiated with Indonesia… than with Portugal or independent Portuguese Timor.”

Indonesian Occupation 1975-1999

7 Dec 1975: Indonesia invades East Timor. PetroTimor and all Portuguese institutions flee.

17 July 1976: Indonesia claims to annex East Timor as its 27th province, but the United Nations continues to regard the territory as a colony of Portugal until 1999.

Oct 1976: Indonesia’s Justice Minister, Prof. Mochtar Kosumaatmadja confirms that Indonesia is prepared to negotiate a seabed boundary to close the Timor Gap on the same terms as the 1971-2 Indonesia-Australia treaties (continental shelf boundaries favorable to Australia).

20 Jan 1978: Australia “recognises de facto” that East Timor is part of Indonesia.

Feb 1979: Australia and Indonesia begin to negotiate a seabed boundary south of East Timor, signifying Australia’s de jure recognition of Indonesia’s annexation of East Timor. More than a dozen negotiating rounds are conducted over the next decade.

Oct 1983: The Jabiru 1a well in the Timor Sea (between West Timor and Australia), drilled by the Australian company BHP, finds significant oil deposits. Exploration and test wells continue, with extraction beginning in 1986. By 1989 confirmed oil reserves in the Timor Sea are 214 million barrels, with Jabiru producing 42,000 barrels every day.

11 Dec 1989: Australia and Indonesian Foreign Ministers Gareth Evans and Ali Alatas sign the Timor Gap Treaty in a ceremony in an airplane flying over the Timor Sea. The treaty establishes a Zone of Cooperation (ZOC) between East Timor and Australia, north of the median line. It provides for Indonesia-Australia joint exploration of the illegally occupied territory, with revenues shared 50-50. Portugal protests immediately.

Oct 1990: East Timor resistance spokesman José Ramos-Horta writes: “Australian oil companies would be well advised not to jump into the Timor Gap area. ...A good advice to Australian business: wait and see how things develop in next 5 to 10 years.”

Feb 1991: East Timorese resistance leader Xanana Gusmão writes the Australian parliament: “Australia has been an accomplice in the genocide perpetrated by the occupation forces, because the interests which Australia wanted to secure with the annexation of East Timor to Indonesia are so evident. The best proof is the Timor Gap Agreement.”


Feb 1991: Portuguese government initiates lawsuit against Australia in the International Court of Justice (ICJ) in the Netherlands. Portugal contends that the Timor Gap Treaty violates East Timor’s right to self-determination and Portugal’s rights as the administrative power. Since Indonesia does not accept the jurisdiction of the court, Australia is the only defendant.
12 Nov 1991: Indonesian troops massacre more than 250 peaceful East Timorese demonstrators at the Santa Cruz cemetery in Dili.

11 Dec 1991: Australia and Indonesia award production sharing contracts to Phillips Petroleum, Royal Dutch Shell, Woodside Australian Energy and other petroleum companies to explore and exploit resources in the Timor Gap Zone of Cooperation. PetroTimor declines to bid, stating the treaty violates its valid claim. Contracts continue to be awarded, and explorations continue, throughout the 1990s.


June 1994: The International Court of Justice rules on Portugal v. Australia. By a 14-2 vote, the court upholds East Timor’s right to self-determination, but cannot invalidate the Timor Gap Treaty because Indonesia, whose claim to East Timor is being challenged, does not accept the court’s jurisdiction. Two judges dissented, one writing that “Australia’s action in entering into the Timor Gap Treaty may well be incompatible with the rights of the people of East Timor.”

Oct 1994: Woodside strikes oil in Laminaria, alongside the ZOC in an area which would be East Timor’s if the 1971-2 boundaries between Indonesia and Australia had been drawn fairly with Portuguese/East Timorese participation.

1995: Phillips Petroleum and other companies discover the Bayu-Undan oil and gas field, within the ZOC.


22 July 1998: CNRT leaders Mari Alkatiri, José Ramos Horta and João Carrascalão issue a statement: “The CNRT supports the rights of the existing Timor Gap contractors and those of the Australian government to jointly develop East Timorese offshore oil reserves in cooperation with the people of East Timor.”

July 1998: Production starts in the small Elang-Kakatua oil field, within the ZOC. By 2002, the field is mostly exhausted, having produced approximately 31 million barrels of oil for Phillips Petroleum and its partners. Although Indonesia and Australia have received revenues from this field, East Timor’s share, about $2 million/year since 2000, has been placed in escrow, pending ratification of the May 2002 Timor Sea Treaty.

1999

27 Jan: Indonesian president BJ Habibie accepts East Timorese demands for an internationally-supervised referendum on independence. Eight months of TNI/militia terror and devastation ensue.

30 Aug: East Timor’s people vote overwhelmingly to reject integration with Indonesia. Following massive destruction by departing Indonesian troops, the territory comes under a United Nations transitional administration leading to independence in May 2002.

Oct: Seven oil companies led by Phillips Petroleum approve development of the Bayu-Undan gas and oil field, in the ZOC. Since then, the companies have invested more than US$1.5 billion in the project. The first phase, liquid production, will start in 2004, with a second phase of gas production starting in 2006. Total East Timor government revenues from Bayu-Undan could be more than US$3 billion, 20 times as much as Elang-Kakatua.

Nov: Woodside’s Laminaria-Corallina project (which includes BHP and Shell) begins producing oil. The companies extract more than 100 million barrels, about half the total reserve, during the next two years, generating more than US$900 million for the Australian government. Some or all this revenue should be East Timor’s if its Exclusive Economic Zone (EEZ) were drawn under UN Law of the Sea (UNCLOS) principles.

29 Nov: Mari Alkatiri, East Timorese spokesman on the Timor Gap, says “we still consider the Timor Gap Treaty an illegal treaty. This is a point of principle. We are not going to be successor to an illegal treaty.”

2000

10 Feb: Australia and UNTAET sign an interim Exchange of Notes and Memorandum of Understanding, which continue the 1989 Australia-Indonesia Timor Gap Treaty terms but replace Indonesia with East Timor. These agreements specify a 50-50 division between Australia and East Timor of oil and gas production from the Zone of Cooperation defined in the Timor Gap Treaty, now called the Joint Petroleum Development Area (JPDA). Nothing is said about areas outside of the JPDA, which should be within East Timor’s EEZ.

Oct: UNTAET begins negotiations with Australia for longer-duration agreement over division of Timor Sea resources, but not about maritime boundaries or the EEZ.
2001

Feb: Ramiro Paz, UNTAET senior economics advisor in the East Timor Transitional Administration (ETTA), writes a six-page paper “The Timor Gap Treaty vs. an Exclusive Economic Zone: Economic Independence for East Timor” for ETTA Economics Minister Mari Alkatiri. Paz strongly recommends that East Timor pursue its full EEZ entitlements under international law, rather than accept or revise the terms of the now-defunct Timor Gap Treaty.

9 April: UNTAET Minister for Political Affairs Peter Galbraith speaks to the Australian Petroleum Production and Exploration Association. Fresh from the second round of negotiations with Australia, Galbraith calls for scrapping the Timor Gap Treaty and negotiating boundaries with Australia based on international law. He urges that an agreement be reached before 15 July to avoid possible complications from East Timor’s soon-to-be-elected government.

5 July: Galbraith, Alkatiri, and two Australian Ministers sign a Memorandum of Understanding (MOU) called the Timor Sea Arrangement. Under this Arrangement, which replaces the February 2000 MOU, East Timor will receive 90% and Australia 10% of oil and gas revenues from the JPDA. The JPDA inherits the ZOC from the 1989 Timor Gap Treaty, altering only the division of revenues. The largest gas field, Greater Sunrise, is deemed to lie 20% in the JPDA and 80% in Australian territory. Although the Arrangement is “without prejudice” to a future seabed boundary delimitation, it does not question Australia’s claim to fields outside the JPDA.

Aug: PetroTimor files suit in Australian Federal Court based on its 1974 agreement with Portugal. The company wants billions of dollars in compensation for lost revenues from Timor Sea oil and gas.

30 Aug: East Timor elects a Constituent Assembly to write its constitution, which later becomes the first Parliament. Fretilin wins 57% of the vote.

21 Dec: Phillips Petroleum and UNTAET agree on a tax and fiscal package to define how East Timor’s new government will benefit from the revenues and investment in the Bayu-Undan oil and gas field in the JPDA. The “Bayu-Undan Understandings” follow many months of negotiation, in which Phillips attempted to use the U.S. and Australian governments to pressure East Timor’s leaders. Discussions of these issues continued in August and October 2002.

2002

15 Mar: Phillips announces that two Tokyo companies will purchase the bulk of Bayu-Undan gas for 17 years, starting in 2005.

21 Mar: Australia formally withdraws from international processes for resolving maritime boundary disputes under the Law of the Sea and the International Court of Justice.

23 Mar: PetroTimor conducts seminars on Timor Gap in Dili. Their experts argue that East Timor should rightfully own 100% of Sunrise and Bayu-Undan, as well as all of Laminaria/Corallina (which lies completely outside of the JPDA). Australian barrister Christopher Ward says “The 5 July 2001 Agreement between Australia and UNTAET represents a political strategy so that East Timor will not raise questions again about the past agreements.”

April: Peter Galbraith explains UNTAET’s process of negotiation on Timor Sea to the East Timor’s Constituent Assembly. He emphasized that East Timor has a “very good legal claim” to more than is agreed to in July 2001 Arrangement, and that the Timor Sea Treaty ends when the maritime boundary is settled, after which East Timor would get 100% in their agreed seabed. Galbraith claims that the agreement laid out in the July 2000 MOU is “the best deal for East Timor that could be negotiated with Australia.”

17 May: Development drilling of 16 wells begins at Bayu-Undan.

19 May: East Timorese civil society groups and opposition political parties protest the imminent signing of the Timor Sea Treaty between East Timor Prime Minister Mari Alkatiri and Australian Prime Minter John Howard.

19-20 May (midnight): The Democratic Republic of East Timor becomes an independent nation.

20 May: East Timorese and Australia Prime Ministers sign the Timor Sea Treaty and an Exchange of Notes to replace the 5 July 2001 Arrangement between UNTAET and Australia. The substance of that Arrangement is continued. Both Prime Ministers commit to work for expeditious ratification of the treaty.

12 June: East Timorese civil society groups form the Timor Gap Working Group, a coalition to monitor the legal process of Timor Sea developments. They urge the East Timor Parliament not to ratify the Timor Sea Treaty.

17 June: At the South East Asia Australia Offshore Oil Conference in Darwin, East Timor Prime Minister Mari Alkatiri pledges that the Timor Sea Treaty “will be ratified soon” because it is about “commitment and understanding” between two countries.
19 July: The first round of negotiations between East Timor and Australia on a Sunrise international unitization agreement (IUA) concludes with both parties pledging to reach agreement by the end of 2002. The IUA will define how the Greater Sunrise field, with about 9 trillion cubic feet of natural gas (worth about US$16 billion), will be divided. Australia (currently expected to receive 82% of Sunrise revenues) has placed a high priority on reaching this agreement so that the Sunrise project can proceed.

17 Aug: The Northern Territory Trades and Labour Council holds a seminar on Timor Sea development in Darwin. Three East Timorese non-government organizations attend: the East Timor Union Confederation (KSTL), Labor Advocacy Institute for East Timor (LAIFET), and Independent Center for Timor Sea Information (CIITT).

24 Aug: East Timor’s National Parliament enacts a maritime boundary law based on UNCLOS principles, claiming an Exclusive Economic Zone for 200 miles off East Timor’s coasts. The law sets the basis for maritime boundary negotiations with both Indonesia and Australia, which have not yet been scheduled.

9 Sep: East Timor Prime Minister Mari Alkatiri and other ministers visit the Bayu-Undan project, hosted by Phillips Petroleum.

17 Sep: East Timor’s Council of Ministers approves the 20 May Timor Sea Treaty, sending it to East Timor’s parliament to be ratified.

3 Oct: Three representatives from East Timorese civil society (NGO Forum, CIITT and La’o Hamutuk) testify at the Australian Parliamentary Joint Standing Committee on Treaties on the Timor Sea Treaty in Darwin. These three organizations appealed to parliament not to ratify the Timor Sea Treaty signed on 20 May 2002, as did many of the more than 80 submissions received by the Committee.

Oct: Sunrise unitization agreement talks continue. Australia and Woodside want to link this agreement to the ratification of the Timor Sea Treaty, thereby holding the Bayu-Undan project (which primarily benefits East Timor) hostage to East Timor’s concession of the bulk of revenues from the larger Sunrise project to Australia. The East Timorese government and Phillips urge that the two agreements be treated separately.

11 Nov: The Australian Parliament Joint Standing Committee on Treaties recommends prompt ratification of the Timor Sea Treaty and prompt agreement on Sunrise unitization.


27 Nov: Australian Foreign Minister Alexander Downer, after meeting with Mari Alkatiri in Dili, says that Australia may not ratify the Timor Sea Treaty until February 2003 or later. The oil companies say that the delay could endanger arrangements to sell gas from Bayu-Undan and Sunrise, adding to pressure on East Timor’s government to promptly accept Sunrise unitization terms which unfairly benefit Australia, rather than insisting that the maritime boundaries be negotiated.

6 Dec: Sunrise partners Woodside, ConocoPhillips, Shell and Osaka Gas announce the indefinite delay of the Sunrise project, claiming that neither the floating LNG processing plant nor the pipeline to Darwin is economically viable.

What is La’o Hamutuk?

La’o Hamutuk (Walking Together in English) is a joint East Timorese-international organization that monitors, analyzes, and reports on the principal international institutions present in Timor Lorosa’e as they relate to the physical, economic, and social reconstruction and development of the country. La’o Hamutuk believes that the people of East Timor must be the ultimate decision-makers in the reconstruction/development process and that this process should be democratic and transparent. La’o Hamutuk is an independent organization and works to facilitate effective East Timorese participation in the reconstruction and development of the country. In addition, La’o Hamutuk works to improve communication between the international community and East Timorese society. La’o Hamutuk's East Timorese and international staff have equal responsibilities, and receive equal pay and benefits. Finally, La’o Hamutuk is a resource center, providing literature on development models, experiences, and practices, as well as facilitating solidarity links between East Timorese groups and groups abroad with the aim of creating alternative development models.

In the spirit of encouraging greater transparency, La’o Hamutuk would like you to contact us if you have documents and/or information that should be brought to the attention of the East Timorese people and the international community.
Anouncing La’o Hamutuk’s OilWeb CD-ROM!

Oil and gas under the Timor Sea between East Timor and Australia are essential to the economic future of the world’s newest nation. These resources have a history full of greed and dishonesty, and have caused much suffering to the East Timorese people.

Although petroleum may bring much-needed money to East Timor, it comes with danger. Around the world, oil and gas development often brings war, corruption, dictatorship, repression and environmental destruction. East Timor must be vigilant to avoid repeating these experiences.

To help the people of East Timor and their international supporters better understand these issues, La’o Hamutuk has collected relevant information and documents and compiled them on the OilWeb CD-ROM. This can used with any computer with a web browser, and does not require connection to the internet.

OilWeb contains more than 200 megabytes of information and analysis, including:

- **Fact Sheets** from the RDTL Timor Sea Office (5), Northern Territory government (14), Offshore Technology Inc. (3), UNTAET, and Australian governments (many).

- **Treaties and agreements** (full text) including the UN Convention on the Law of the Sea (UNCLOS), Australia-Indonesia boundary treaties (6), agreements between Australia and UNTAET or DRET (5). Australia’s withdrawals from UNCLOS and ICJ dispute resolution, with National Impact Analyses. East Timor’s Maritime Boundaries Law.

- **Australian Parliamentary inquiry** into the Timor Sea Treaty, including testimony (65), hearing transcripts (7), and report.


- **Pipeline options studies** by Phillips, Intec, and others.

- **Finances** of the Timor Sea, including World Bank report and excerpts from RDTL Budget and National Development Plan.

- **Profiles of oil companies** in the Timor Sea, including annual reports, financial information, histories, and materials about their Timor Sea activities.

- **La’o Hamutuk** Bulletin articles (10), with many maps and illustrations. Overviews of issues above, oilfields, history, and companies.

- **OilWatch Network** information about oil consequences and popular resistance, including case studies from around the world.

- **Background Papers** on global warming, oil and war, oil and poverty, and right to know.

- **Timor Gap Joint Authority**: organization chart, production-sharing contract areas field and contractor information, regulations.

- **Bahasa Indonesia**: Timor Sea Treaty, articles from La’o Hamutuk Bulletin, analyses in Suara Timor Lorosa’e, RDTL fact sheets, testimony from East Timorese NGOs.

- **Tetum**: La’o Hamutuk Surat Popular

La’o Hamutuk is releasing the first edition of OilWeb in March 2003; updated editions will be produced occasionally. La’o Hamutuk distributes OilWeb at cost to East Timorese NGOs and their supporters, and for US $50 to other individuals or institutions. We welcome your corrections and suggestions, as well as help with distribution and publicity.
Australian and East Timorese Views of the Timor Sea

The map at left is from an Australian government website; the one below from an East Timorese government fact sheet.

Why not let an international court, following the United Nations Convention on the Law of the Sea, decide which is correct, so that the long struggle to define East Timor as an independent nation can finally be completed?