

SUBMISSION NO. 2

The Secretary
Joint Standing Committee on Treaties
Parliament of Australia
Parliament House
Canberra, ACT 2600
AUSTRALIA

22 July 2002

Dear Secretary

Re. Inquiry into the Timor Sea Treaty (May 2002) and the
Exchange of Notes
between East Timor and Australia (Timor Sea) (May 2002)

Thank you for the opportunity to comment on your Committee's
review of
these two important agreements.

The first revises and largely replaces the Timor Gap Treaty
(1991) between
Australia and Indonesia, while the second puts in place some
transitional
arrangements until the 2002 Timor Sea Treaty comes into force.
The second
agreement ('Exchange of Notes') also carries East Timor's
comment that it
does not accept the legitimacy of the 1991 Treaty, nor
Indonesia's
annexation of East Timor.

Both documents must be considered in context of a third document
signed at
the same time, the Memorandum of Understanding between Australia
and East
Timor. This MOU expresses an agreement to "work expeditiously
and in good
faith" to conclude by 31 December 2002 an "international
unitisation
agreement" over the Greater Sunrise deposits. Conclusion of an
agreement on
this is "without prejudice" to the entry into force of the 2002
Treaty.

It is clear from the negotiation process and from these
documents that: (i)

despite apparent agreement over 'medial' boundary resource sharing (if not seabed boundaries) between the two countries (ii) there is a dispute over the 'lateral' seabed boundaries and lateral resource sharing between Australia and East Timor, and that (iii) the Australian Government, in agreeing to revise the Greater Sunrise resource sharing arrangements (as they currently appear in the Joint Petroleum Development Area - JPDA - definitions of the Timor Sea Treaty 2002), recognises that there is some force in the East Timorese position.

It is highly unsatisfactory that the otherwise very good relations between Australia and the newly independent nation of East Timor are soured by this dispute. Australia's goodwill in East Timor may be squandered.

In my view the dispute can only be properly resolved by prompt and full resolution of the definition of seabed boundaries. This is not technically complex. A previous Senate committee has already reported, in relation to East Timor (December 2000: Chapter Four), that "the Australian Government should take into account international law in relation to seabed boundaries". International arbitration would be available for this purpose, if required.

In my submission, therefore, the Committee should press the Australian Government:

1. to resolve the outstanding seabed boundary disputes AND the related resource sharing dispute (lateral to the JPDA) between Australian and East Timor
2. to do this according to international law, and with the assistance of international arbitration, if agreement cannot easily be reached
3. to do this in a timely manner, so that the people of East Timor are not

wrongly deprived of resources in particular from the rich oil
and gas
fields of Greater Sunrise, to the northeast of the JPDA, but
also the oil
and gas fields to the southwest.

Yours sincerely

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