

Timor Sea Treaty
Submission No: 33
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NSW 2021
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TO THE JOINT STANDING COMMITTEE ON
TREATIES... TIMOR SEA AGREEMENT INQUIRY,,, PRIVATE SUBMISSION

Dear Secretary of Joint Standing Committee on Treaties,

I have learnt with great concern of the Agreement signed with East Timor on 20th May on the matter of the resources in the Timor Sea between Australia and East Timor. This has not been ratified as yet by either the Australian or East Timorese governments.

Contrary to the 'good deal' that East Timor has been reported as receiving, it will receive only an estimated 40% of its due entitlements (estimate by Dr Andrew McNaughtan) of Timor Sea oil and gas resources as opposed to 100% if international law was allowed to operate.

The reason that 'international law' cannot 'operate' is that this country has, by its own Government, but without consultation, partially divorced itself from the World Court in the Hague. Unilaterally, and obviously with an eye to disadvantaging the East Timorese, Alexander Downer has cut us off from World Court adjudication on seabed boundaries.

With World Court decisions, it is very likely that East Timor would receive a great deal more sea territory than it currently has. That area would take in all of the Greater Sunrise oil and gas field. As it stands East Timor will receive 90% of the very small part of that field that extends into the 'Joint petroleum development area' (JPDA), previously 'Zone A' under the Timor Gap Treaty with Indonesia.

We do not want to see East Timor as a mendicant state that has to depend on aid from this country, simply because, by slight of hand, we have given that country a raw deal. The East Timorese deserve relative prosperity and stability.

I advocate, as do many others, a renegotiation of the deal, taking into account what would be East Timor's sea boundaries under international law. Australia's long term interests lie in giving East Timor a fair deal, and abiding by international law.

Yours sincerely,

Stephen Langford

With thanks to
Toni Pollard for
this - S

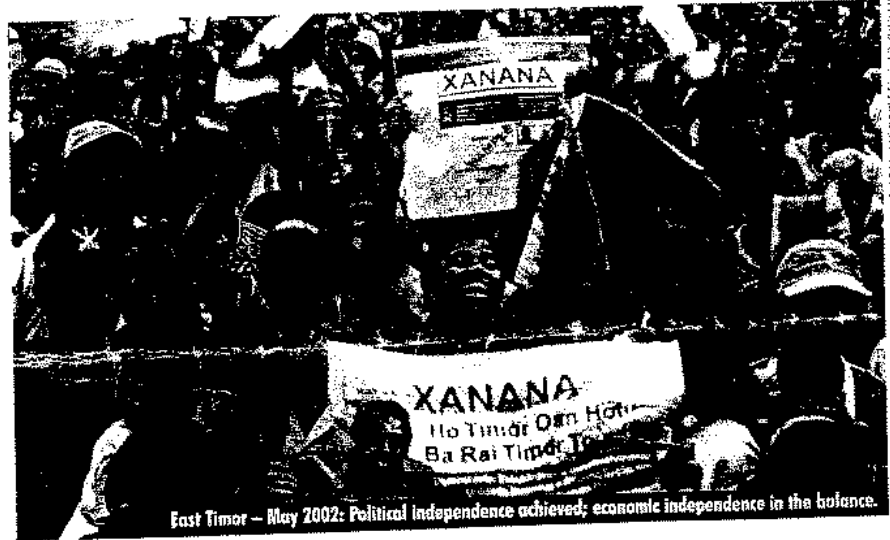
EAST-TIMOR

Timor oil pressure

Independence comes at a high price

AFTER 500 years of colonialism 2002 marks an outstanding victory for self-determination in East Timor. But in the world's newest nation, the struggle for economic independence is just beginning. Since the cataclysmic end to Indonesian occupation in 1999, East Timor's economy has been reliant on donations from countries, most of which supported its annexation. That should change in 2005 when enough oil and gas revenues from the Timor Sea come online to sustain Government expenditure. In the meantime, international donors are being asked by the East Timor

Australia. Australia is acting to ensure that these revenue flows continue. It may be East Timor's fourth-largest donor, but it wants to give millions with one hand and take an estimated \$30 billion in future oil and gas revenue with the other. At a conference in the capital, Dili in late March, PetroTimor (a US oil company vying for a stake in the area) produced expert legal advice saying that the treaty compromised East Timor's position under current international law on maritime boundaries, that would have given East Timor almost all of the reserves in the



East Timor - May 2002: Political independence achieved; economic independence in the balance.

Government to save the country from going into debt by bridging its expected 'gap' (a third of its budget) with \$91 million in grants. Despite the modesty of the request, foreign donors (including the US, Australia, and Japan) want the World Bank - not the East Timor Government - to administer the grants. East Timor's Finance Minister, Fernanda Borges, resigned in April. The main fear held by commentators inside the country now is that the grants will be made contingent upon East Timor giving up oil and gas reserves in the Timor Sea: an implicit part of World Bank negotiations. While the Timor Sea reserves are in a seabed claimed by both Australia and East Timor, a treaty negotiated between Australia and the UN Transitional Administration in East Timor entitles East Timor to 90 per cent and Australia to 10 per cent of the oil and gas revenues in a 'Joint Petroleum Development Area' within the disputed territory. This sounds favourable for East Timor. Yet the area covered by the treaty holds less than half the petroleum reserves in the disputed area. Most of the reserves, and most of the revenue from them, flow to

Timor Sea. PetroTimor offered to fund East Timor's case against Australia in the International Court of Justice, in return for a cut of the revenues. The International Court of Justice can determine a case only when both countries in dispute accept its jurisdiction. The Monday following PetroTimor's revelations, the Australian Government announced that it had withdrawn from the court's jurisdiction on maritime boundaries claiming that disputes were better settled through 'negotiation'. Meanwhile, UN advisers presently in East Timor are supporting the continuation of the treaty, and Australia's economic position under it. East Timor's Prime Minister, Mari Alkatiri, has described the move as an 'unfriendly act'. But East Timor needs money; even if it comes from short-term grants and inequitable treaties. The donor grants will help this emerging nation avoid the debt trap and be independent from the World Bank in the long term. But economic freedom comes at a high price. East Timor may have to compromise some of its sovereignty and most of its natural wealth to get it.

Quinton Temby
New Internationalist 6/2002



OFFICE OF THE ATTORNEY-GENERAL

Min No. 02/218196

Stephen Langford
Secretary
Australia East Timor Association (NSW)
25 Comber Street
PADDINGTON NSW 2021

- 5 JUN 2002

Dear Mr Langford

I refer to your letter to the Prime Minister dated 16 April 2002 concerning the recent declarations that Australia made under the Statute of the International Court of Justice and under the United Nations Convention on the Law of the Sea. Your letter has been referred to me for a response.

Australia has not, as you have suggested, withdrawn from the International Court of Justice. Rather, it has made a new declaration of acceptance of the jurisdiction of the Court that excludes certain forms of dispute from Australia's acceptance of the jurisdiction of the Court, including those disputes concerning maritime boundaries. At the same time, Australia made a declaration accepting the International Court of Justice and the International Tribunal for the Law of the Sea as forums for the settlement of disputes that might arise under the United Nations Convention on the Law of the Sea. That latter declaration also excludes disputes concerning Australia's maritime boundaries.

Australia has maritime boundaries with a number of countries, one of which is East Timor. In the Government's view, those boundaries are best settled by negotiation and not by reference to an international court or tribunal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simone Burford', with a large, sweeping flourish at the end.

Simone Burford
Chief of Staff

Legal fight looms over East Timor gas billions

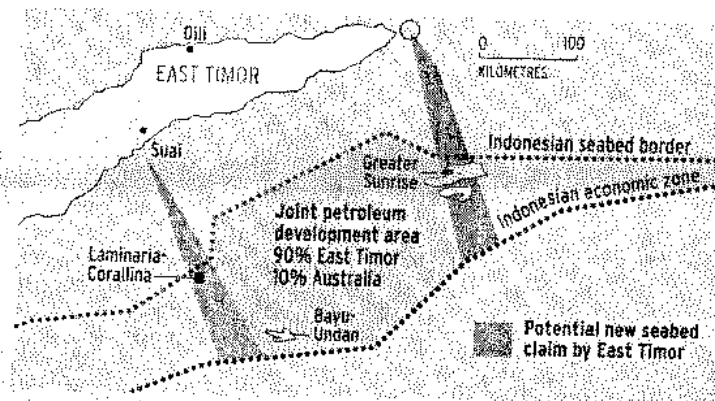
Hamish McDonald
International Editor

Australia yesterday announced it would no longer submit to international legal rulings on maritime boundaries - after leading lawyers advised East Timor that Canberra was poised to rob it of tens of billions of dollars in oil and gas revenue.

A challenge to the seabed boundaries in the Timor Sea could raise new doubts about billions of dollars of gas-based development planned for Darwin. But from East Timor's point of view, it could offer a chance to escape economic dependence.

The Attorney-General, Daryl Williams, and the Foreign Minister, Alexander Downer, said Australia would henceforth exclude maritime boundaries from compulsory dispute settlements in the International Court of Justice - the "World Court" sitting at The Hague - and the International Tribunal for the Law of the Sea.

The statement came after a weekend seminar in Dili heard



expert legal advice that East Timor should own most of the biggest natural gas fields so far discovered in the sea, including the huge Greater Sunrise resource being developed by Woodside, Shell, Phillips and Osaka Gas.

The former head of the United States oil company Unocal, John Imle, also disputed the widely accepted view that the deep Timor Trench, north of these fields, blocked a pipeline to East Timor.

This view has been the basis of plans to land the gas near

Darwin, giving Australia billions of dollars in industrial spin-offs.

East Timor may be offered the funds to mount a case at the World Court by a US oil company, PetroTimor, which has a separate dispute with Canberra over offshore oil concessions.

The prospect has rung alarm bells in the Federal and Northern Territory governments, although the offices of Mr Williams and Mr Downer denied yesterday's decision was linked to the Timor Sea issue, and said it had been

considered "for quite some time".

They said: "Australia's strong view is that any maritime boundary dispute is best settled by negotiation rather than litigation".

But it is not clear Canberra has evaded a World Court case. A lawyer advising PetroTimor, Ron Nathans of the Sydney law firm Deacons, said the announcement did not mean Australia was immediately out of the court's ambit. "Australia is not out of it today. Australia cannot just walk away."

Mr Nathans said although the draft treaty with Australia, agreed upon last July, set aside any boundary disputes, it could be seen as acquiescence in claims by parties affected by a future attempt to alter the boundaries.

A leading oil and gas engineer, Geoffrey McKee, said that over the economic life of Greater Sunrise - 2009 to 2050 - such changed boundaries would give East Timor up to \$US36 billion (\$68 billion) more in government revenue than the \$US8 billion it can now expect. Australia's share would shrink from \$US28 billion to nothing.

