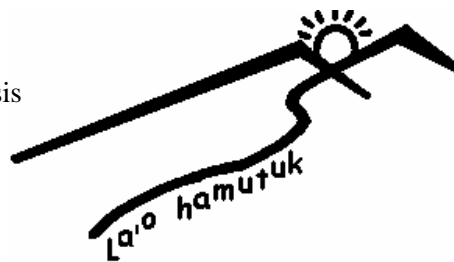


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Submission to the
Australian Parliament's Senate Economics Legislation Committee

from the

East Timor Institute for Reconstruction Monitoring and Analysis

**João da Silva Sarmento, Timor Sea Project Coordinator
(authorized by the Institute)**

regarding the

**Greater Sunrise Unitisation Agreement Implementation Bill and Customs
Tariff Amendment (Greater Sunrise) Bill 2004**

To

**Committee Secretary
Senate Economics Legislation Committee
Room SG.64, Parliament House
Canberra ACT 2600 Australia
email: economics.sen@aph.gov.au**

18 March 2004

The East Timor Institute for Reconstruction Monitoring and Analysis hereby submits information to your Committee for consideration as you discuss Australian legislation implementing the international Unitisation Agreement between Australia and East Timor for the Sunrise and Troubadour oil and gas fields (IUA).

On 13 June 2003, we made a submission on this subject to the Australian Parliament's Joint Standing Committee on Treaties, which the Committee received as Submission No. 7. The information we presented in that submission continues to be accurate, and we ask that your Committee incorporate that submission in your record and deliberations. A copy of it is appended to this submission.

Last year, we pointed out that the Sunrise IUA, as coerced upon the new nation of East Timor, is part of an ongoing effort by the Australian government to deny East Timor's sovereignty for Australia's short-term material gains. We are unhappy to observe that Australian policies over the past year, including the issuance of new exploration licences in disputed areas and the continuing collection of revenue from Laminaria-Corallina and other oil and gas fields claimed by both East Timor and Australia, continues this behaviour.

Under current international law principles, the maritime boundary between two nearby nations' exclusive economic zones is almost always defined along the median line between their coasts. Once again, we urge Australia, as East Timor's government has done officially, to recognize that East Timor has a legitimate claim to maritime resources which lie closer to East Timor's coast than to Australia's, and to seriously and expeditiously negotiate a permanent maritime boundary with your new neighbour to the north. Until that boundary is settled, Australia's extraction of resources and signing of contracts in this area is tantamount to an illegal occupation of our territory.

In our previous submission, we explained the self-serving *mare nullius* doctrine that seems to govern Australia's actions, and the current legislation perpetuates that fiction. By repeatedly referring to the "Eastern Greater Sunrise Area" as "sole Australian jurisdiction," you deny the independence that so many East Timorese people struggled and died for over the past quarter-century. Although Australia is rightfully proud of the role you played in leading InterFET in 1999 to help us emerge from illegal Indonesian occupation, many East Timorese are beginning to wonder if it was a more pragmatic move -- the beginning of a new military occupation so that our southern neighbour could continue to steal our oil, just as our northern neighbour formerly took our lives.

One illustration of the contempt your Government has for our nation is the use of the term "Joint Authority" in the current legislation for an agency which represents only the Australian government. This is intentional obfuscation, but it exemplifies your government's belief that there is no substantive difference between the TSDA joint authority comprised of two sovereign governments, and a "Joint Authority" between two hemispheres of a Commonwealth Minister's brain.

Like many in Australia, we were surprised at the urgent pace with which your Government tried to push this legislation through Parliament last week without prior notice, although the IUA was signed more than a year ago, and the JSCT issued its report in July 2003. The unseemly haste with which this legislation is now moving through your Parliament reminds us of 22 March 2002, when your government withdrew from impartial maritime boundary dispute resolution mechanisms under the International Court of Justice and the International Tribunal for the Law of the Sea, informing your Parliament only after the action was taken.

At that time, your National Interest Analysis explained:

"The 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 the International Court of Justice that could not be brought once the new declaration was made."

We do not yet know which of East Timor's legal rights your government is attempting to undermine by the rushed ratification of the Sunrise IUA legislation, but past experience makes us concerned. East Timor is Australia's closest neighbour (as well as the largest, albeit unwilling, foreign contributor to the Commonwealth budget), and we believe that good relations between us, as well as the long-term economic and political stability of our new and impoverished nation, are in the best interests of both Australia and East Timor.

Unlike Australia's withdrawal from ICJ and ITLOS, the IUA requires ratification by the Government of the Democratic Republic of East Timor as well as that of the Commonwealth of Australia. We hope that our new and under-resourced Government will act with more fairness, fuller deliberation of all relevant issues, attention to the rule of law, consultation with its constituents, and consideration of the long- and short-term consequences of its action than your Government is demonstrating with its approach to this legislation.

We give the Senate Economics Legislation Committee permission to circulate this submission in full. We also request the Committee's permission to circulate this submission to other persons. This submission has been authorized at the highest level of our organization.

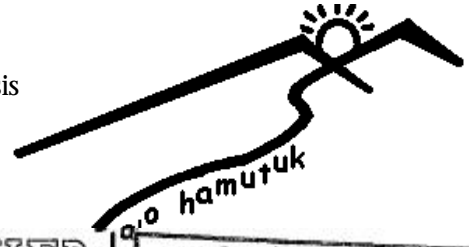
Thank you for your attention, and we look forward to continuing this dialogue at a more reasonable pace.

For further information or questions, contact:

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TT May June 2003
Submission No:7.....

BY:.....

Submission to the
Australian Parliament's Joint Standing Committee on Treaties

from the

East Timor Institute for Reconstruction Monitoring and Analysis
Adriano do Nascimento, Timor Sea Project Coordinator
(authorized by the Institute)

regarding the

Agreement
between the Government of Australia and the Government of the Democratic
Republic of Timor-Leste
relating to the Unitisation of the Sunrise and Troubadour Fields,
done at Dili on 6 March 2003

To

Committee Secretary
Joint Standing Committee on Treaties
Department of House of Representatives, Parliament House
Canberra ACT 2600 Australia
Phone: +61 2 6277 4002, Fax: +61 2 6277 4827, email: jsct@aph.gov.au

13 June 2003

The East Timor Institute for Reconstruction Monitoring and Analysis hereby submits information to your Committee for consideration as you discuss the international Unitisation Agreement between Australia and East Timor for the Sunrise and Troubadour oil and gas fields (IUA). We believe that this is the most important single factor in establishing a secure future for 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 this Agreement.

Summary of Submission

- The IUA primarily serves Australian short-term economic interests and those of Australian-based oil companies.
- Australia's longer-term future, as well as the future of East Timor, depends on establishing the boundary between the two countries' Exclusive Economic Zones. The Timor Sea is not *mare nullius*.
- Australia's record and statements over the past two years indicates that self-interest takes priority over legal and humanitarian considerations, as well as over justice.
- Economic information about East Timor in Australia's National Interest Analysis on this Agreement is inaccurate. We would like to help you make your decisions based on full and correct information.
- Whether or not East Timor ratifies this Agreement quickly, we hope that Australia will no longer obstruct oil and gas developments critical to East Timor's future.

Recommendations

- We take no position on whether the Joint Standing Committee on Treaties should recommend the ratification of the Sunrise Unitisation Agreement. However, the Committee should understand that the Agreement derives from negotiations conducted before East Timor was independent (Timor Sea Treaty, Annex E) and from a process of bullying and blackmailing the newly-independent government while it was being negotiated. It does not result from a fair and respectful dialogue between two sovereign states. Each Member of Parliament who votes for ratification is, in effect, endorsing this process.
- Australia should promptly negotiate its maritime boundary with East Timor, based on international legal principles. Once the boundary is resolved, the IUA will be obsolete and void.
- Australia should rejoin the community of law-abiding nations by reinstating participation in the International Court of Justice and International Tribunal for the Law of the Sea mechanisms for resolving boundary disputes.
- The Australian government should treat the sovereign government of East Timor with respect and refrain from using its greater size or wealth to bully our newly-independent country.

Introduction

The East Timor Institute for Reconstruction Monitoring and Analysis is a three-year-old, East Timor-based, non-governmental organization, commonly known as *La'o Hamutuk* ("walking together"). Our work focuses on improving understanding between East Timorese civil society and international institutions active in this country. In our publications, radio program, and web site (www.etan.org/lh) we have analysed many development issues, including extensive reporting on Timor Sea oil and gas. We are a founding member of the Independent Information Centre for the Timor Sea (CCITT), and we work closely with people from throughout East Timor, Australia and around the world, drawing on their expertise to inform our analysis.

Our Institute recently published the *OilWeb* reference CD-ROM, which contains hundreds of documents, maps and audiovisual materials on Timor Sea petroleum resources, boundaries, and relevant historical, legal, geological, political, environmental and economic issues.

We made a submission to your Committee last July on the Timor Sea Treaty, and participated in your public hearing in Darwin last October. We appreciate the courtesies you extended when we testified in person in Darwin, and we invite you to come to East Timor as part of this inquiry so that we can reciprocate, or to facilitate East Timorese participation in hearings in Australia.

We were disappointed that none of the submissions from East Timor were referenced or footnoted your Committee's report on the Timor Sea Treaty. We hope the members of the Committee did read them, and didn't base your recommendations entirely on submissions from the Australian government, oil companies, lawyers, and a few Australian NGOs. Although we do not elect you to Parliament, we believe we raised important concerns, and trust that you approach these issues with an open mind. We will not repeat our Timor Sea Treaty submission in this one, but we encourage you to review it as many of the issues discussed are also relevant to the International Unitisation Agreement.

We are making a submission to the present inquiry in our continuing optimism that the members of the JSCT should have access to a range of facts and perspectives as you make your deliberations. We hope that this belief is not unfounded, and we beg your forgiveness if our language is less diplomatic than it would be if we were certain that our views would be listened to.

We give the Joint Standing Committee on Treaties permission to circulate this submission in full. We also request the Committee's permission to circulate this submission to other persons. This submission has been authorized at the highest level of our organization.

We appreciate this opportunity to explain some facts and concerns relating to the development of Timor Sea oil and gas, especially where Australian policies violate East Timor's sovereignty. Given the frequent inaccuracies in the media and in statements by public officials in Australia and elsewhere, we believe that this information will be helpful to the Committee and to other Australians.

Some of the information in this submission does not relate directly to the terms of the IUA currently before the Committee, but that Agreement is part of the history of Australia-Indonesia, Australia-UNTAET, and Australia-East Timor negotiations over Timor Sea resources, and will partly shape the pending resolution of the maritime boundary, and future apportionment of those resources. Past decisions constrain current ones, and current ones may be used in a similar way in the future. We do not believe that the IUA can be considered in isolation.

The IUA serves Australian interests

The IUA primarily serves Australian economic interests and those of Australian and multinational oil companies. As you know, the Australian government developed this agreement in close consultation with Woodside Energy Ltd., which represented ConocoPhillips, Shell and Osaka Gas in addition to itself as operator and largest shareholder of the Greater Sunrise project. If developments proceed as planned, these companies will reap billions of dollars from this project. The Australia government is projected to receive approximately A\$8.5 billion in revenue, plus spin-offs from wage taxes and spending for infrastructure, support, and potential downstream processing in Australia. East Timor will receive approximately A\$1.9 billion, and a negligible share of the spin-off.

Your country is large and rich, and ours is small and poor. The Sunrise income to Australia over three decades adds up to approximately three weeks of the Commonwealth government's budget. East Timor's much smaller share would fund our government for 13 years at current levels. As Australia celebrates the lucrative deal won by Mr Downer's hard bargaining, we hope you appreciate the costs to us: the highest infant and maternal mortality in Asia, the inability to educate our children, the lack of clean water, electricity and adequate roads for the great majority of our population. We pray that Australia's windfall doesn't lead to the "failure" of our state – with the economic collapse, civil disorder, violence and refugee flight that could ensue.

The entire Sunrise Unitisation area is closer to East Timor's coastline than it is to Australia's. Under current legal principles – the "median line" concept – it all belongs to East Timor. The principle of a

median line Exclusive Economic Zone (EEZ) boundary was accepted in Australia's (unratified) 1997 treaty with Indonesia on the water column; we encourage Australia to extend this idea to conform with international practice of defining EEZs above and below the sea floor to be bounded by the median between coastlines.

For three decades, Australian governments have claimed that there is a "continental shelf boundary" between Australia and East Timor that runs through the Timor Trough. In fact, East Timor is situated on the continental shelf of Australia; the tectonic plate boundary between the Australian and Indonesian plates lies north of East Timor. The Timor Sea is a foreland basin, not a subduction zone.¹ In fact, Timor Island is the only place where Australia's "Northwest Shelf" (a geological feature from the Australia continent) rocks are not under water.² The location of the boundary is a legal issue, not a geological one.

Article 2 of the IUA states that the Agreement is without prejudice to maritime boundaries, and that by signing the IUA neither Australia nor East Timor surrenders its claim to the disputed area. But the IUA does not say that revenues received before a boundary settlement is reached will be redistributed according to the location of the boundary. In other words, the Agreement legitimizes Australia's profiting from the disputed territory, and gives Canberra an incentive to delay a boundary settlement until all the Greater Sunrise resources are extracted, and 82% of the revenue has gone to Australia's treasury.

Although this may be good for the Commonwealth budget, we believe it undermines Australia's moral and legal integrity, as well as her claim to be a good neighbour and law-abiding member of the international community.

Australia and East Timor deserve maritime boundaries.

Every nation has the right to know where its territory ends and those of its neighbours begin. As a continental island with no land borders, Australia may not appreciate that this is essential to national identity and sovereignty. But East Timor has experienced centuries of foreign rule, and we know the importance of defining our nation. We struggled for 24 years against the Indonesian occupation – an illegal occupation encouraged and supported by Australia until 1999 – and our people paid for national independence with their lives. But that independence is not complete, and our struggle unfinished, until the extent of our land and sea territory is defined, and until both our neighbours accept it.

For some East Timorese, money is not the most important issue. Although the Australian government has pressured our government to accept the Timor Sea Treaty and the Sunrise IUA as interim arrangements to allow oil revenues to begin flowing, many people do not feel sovereignty should be traded for quick cash. If we wanted money, we should have stayed with Indonesia. They were giving East Timor development and infrastructure to try to buy off our people. Our families didn't die for money – we died for freedom. And how can we have freedom if we don't know what is East Timor's territory and what is not?

Yet Australia continues to refuse to negotiate the boundaries, has withdrawn from legal processes to arbitrate them, and is, through this IUA and contracts with companies in contested areas, taking resources which belong to East Timor.

The Timor Sea is not *mare nullius*.

These days, most Australians acknowledge the lie and the crime of the *terra nullius* doctrine used by Europeans to justify moving to Australia two hundred years ago, seizing land and resources from the people who had lived there for millennia by pretending they were not human or did not exist. But today, your government is repeating this crime in the Timor Sea. The Sunrise IUA is a legal fig leaf – forced by

¹ Hoffman, Dr. Nicholas (petroleum geophysicist, 3D-Geo Consultant Group). *The Timor Trough: Opportunities and Challenges* presented at the International Energy and Mineral Resources Conference in Dili, 6 March 2003.

² Keep, Dr. Myra, structural geologist, University of Western Australia. *Hydrocarbons in the Timor Sea* presented at the International Energy and Mineral Resources Conference in Dili, 6 March 2003.

the strong upon the weak – to hide the essence of imperial conquest. By pretending that East Timor does not exist, and that people here have no rights, Australia is once again seizing other peoples' property by self-delusion and blatant force. Did centuries of foreign colonization and occupation remove not only our sovereignty, but our humanity as well? After decades of struggle (with Australian help at the very end) we finally regained our sovereignty. What must we do to recover our humanity in your eyes?

As a new nation, East Timor has no maritime boundaries. Before 1975, Portugal was our legal Administering Power, and they never agreed to a boundary with our southern neighbour. From 1976 until 1999, we were under illegal occupation by Indonesia. The illegality of the occupation, and our *erga omnes* right to self-determination, were repeatedly confirmed by the United Nations Security Council³ and General Assembly,⁴ and by the International Court of Justice in 1995⁵ – and Indonesia had no legal right to sign treaties on behalf of Portuguese (East) Timor. East Timor has no historic, legal or moral obligation to accept agreements made by other countries regarding our territory. If Papua New Guinea and East Timor negotiated a treaty defining Queensland and the Gold Coast as part of Papua New Guinea, while designating the Northern Territory and Western Australia (including the Northwest Shelf gas fields) as belonging to East Timor, would Canberra be bound to follow it?

Australia's and East Timor's governments each claim a 200 mile Exclusive Economic Zone, but because we are close neighbours, the claims overlap. The contested area will eventually be apportioned by mutual agreement, after negotiation and perhaps arbitration. Although our Institute supports the East Timor government's claim to the entire 200 miles, we recognize that the eventual settlement will probably conform with legal principles spelled out in case and statutory law since the United Nations Convention on the Law of the Sea (UNCLOS) was signed more than 20 years ago. A just boundary between East Timor and Australia will follow the median line: seabed areas closer to East Timor's coastline than to Australia's are part of East Timor, while those closer to Australia's coast than to East Timor are part of Australia.

Areas claimed by both Indonesia and East Timor will probably be resolved in a similar manner. Areas between Australia and Indonesia, further from East Timor than from either of our neighbours, have already been apportioned by bilateral treaties between Jakarta and Canberra, and do not require re-negotiation. But the 1972 seabed boundary negotiated between Indonesia and Australia (without Portugal's participation) is not binding on East Timor. Similarly, the endpoints of the "gap" where Canberra and Jakarta decided among themselves how far they would intrude into the territory of Portuguese Timor, do not relate to this nation,⁶ and the 1989 Australia-Indonesia Timor Gap Treaty was always illegal and has no relevance today.

Many in Australia, including political leaders and media, incorrectly believe that the Joint Petroleum Development Area (JPDA) contains all the oil and gas resources in the Timor Sea, and that Australia has been generous by allowing East Timor to receive 90% of its revenues. In fact, the JPDA contains less than half of the petroleum resources in the Timor Sea (Bonaparte Basin) between our two

³ UN Security Council resolutions 304 (1975) of 22 December 1975 and 389 (1976) of 22 April 1976.

⁴ General Assembly resolutions 3485 (XXX) of 12 December 1975, 31/53 of 1 December 1976 and 32/34 of 28 November 1977, plus five others passed in subsequent years. Australia voted in favour of the 1975 resolution, and abstained on the ones in 1976 and 1977, voting against subsequent ones. Australian legal acceptance of the Indonesian occupation of East Timor from 1978 on was contrary to international law, the United Nations and the position of most governments, including many of Australia's traditional allies, such as the United States.

The 1975 Resolution, supported by Australia, "Calls upon all States to respect the inalienable right of the people of Portuguese Timor to self-determination, freedom and independence and to determine their future political status in accordance with the principles of the Charter of the United Nations and the Declaration of the Granting of Independence to Colonial Countries and Peoples." It also "Calls upon all States to respect the unity and territorial integrity of Portuguese Timor." Unfortunately Australia did not heed that call, and is defying it again today.

⁵ Opinion of the International Court of Justice, *Case Concerning East Timor (Portugal v. Australia)*, 30 June 1995. General List No. 84, 30 June 1995.

⁶ This point is acknowledged in the JSCT report on the Timor Sea Treaty, at paragraph 1.10.

countries. The complete picture includes areas outside of the JPDA but on East Timor's side of the median line (which should be within East Timor's Exclusive Economic Zone), as well as areas on Australia's side of the median line, which properly belong to Australia. (See table below).

The Unitisation Agreement discusses areas outside the JPDA, outside territory that Australia has tacitly acknowledged (by allowing East Timor to control the Timor Gap Joint Authority and receive 90% of the revenues) belongs to East Timor. The IUA is carefully worded so that East Timor's government doesn't relinquish its claim to sovereignty over those areas, while Australia continues act as if they are part of Australia including receiving the revenues. Since Australia refuses to negotiate boundaries or participate in impartial international arbitration processes, this is an unjust and unworkable "compromise" which conceals the outright theft of East Timor's birthright.

The following table shows the estimated energy reserves (million of barrels of oil equivalent) in the major oil and gas fields between the two countries. It does not include fields which lie closer to Indonesia than to East Timor (such as the Browse Basin and Ashmore-Cartier area), or which are clearly outside East Timor's EEZ.

Oil and Gas Fields in the Timor Sea between East Timor and Australia						
Field(s)	Location	Estimated reserves (mmBoE)	Timor Sea Treaty and Unitisation Agreement		According to UNCLOS legal principles	
			Australia's share	E. Timor's share	Australia's share	E. Timor's share
Evans Shoal Petrel-Tern Blacktip	Australia's side of the median line	1540	1540	0	1540	0
Elang-Kakatua Bayu-Undan Chudditch Jahal	JPDA (East Timor's side of the median line), excluding the IUA	1380 (including 30 already extracted)	138	1242	0	1380
Greater Sunrise	IUA, East Timor's side of the median line, 20.1% in the JPDA	1920	1573	347	0	1920
Laminaria-Corallina Buffalo	East Timor's side of the median line, outside the JPDA and IUA	270 (including 220 already extracted)	270	0	0	270 (revenue to be redistributed)
Total		5110	3521	1589	1540	3570

Figures are taken from several sources;⁷ they approximate the situation at the end of 2002.

From this table, we can see the following:

- 30% of the petroleum resources in the Timor Sea are on Australia's side of the median line, while 70% are on East Timor's side.
- Under the Timor Sea Treaty, East Timor gives Australia 10% of the JPDA, or 2.7% of the total Timor Sea resources.
- Under the IUA, Australia takes an additional 30% of the Timor Sea resources.

⁷ Sources include oil companies, the Australian government, the United Nations, and independent experts. Due to the difficulties of converting oil and gas resources to a common energy unit, estimating reserves, and comparing different sources and times, these figures are approximate. We believe that they accurately portray the relative sizes of the reserves in different areas, and how they would and should be allocated.

- The combined effect of the two agreements transfers nearly two billion BoE from East Timor to Australia, resulting in East Timor's losing approximately 55% of all its petroleum reserves. (Although not shown in the table, Australia has more than four times as much as the total Timor Sea petroleum reserves in other areas.)

The most concrete manifestation so far of the *mare nullius* doctrine is the extraction of the Laminaria-Corallina oil fields, which began production in November 1999, as smoke was still rising from the ashes of East Timor. Through the end of 2002, the fields had produced A\$5.1 billion in sales,⁸ with more than 2/3 of their oil already extracted. The Laminaria-Corallina joint venture partners (Woodside owns 47.9%, with Shell and BHP holding the balance) have paid approximately A\$2 billion in royalties to the Australian government, and not one cent to the government of East Timor. If a fair boundary were agreed tomorrow, Australia would owe this money to East Timor.

Another example of *mare nullius* is found in the Commonwealth's annual "Release of Offshore Petroleum Exploration Areas in Australia."⁹ The 2003 release, distributed three months ago, includes Area NT03-3, a significant portion of which lies on East Timor's side of the median line, in an area claimed by both nations. Last year's release included NT02-1 adjacent to the Sunrise-Troubadour Unitisation area, and almost entirely on East Timor's side of the median line. In the 2001 release, NT01-03 also intrudes into what is likely to be East Timorese territory. The information Australia provides to bidders does not indicate that sovereignty over these areas is unresolved.

On 20 September 2002, the Commonwealth awarded area NT/P62 (released as area NT01-3) to National Oil & Gas Pty Ltd (35%, operator), Australian Natural Gas Pty Ltd (35%), and Nations Natural Gas Pty Ltd (30%).¹⁰ Although bids on NT02-1 were due last October, we do not know if an exploration contract has been awarded.

Is it appropriate for Australia to solicit and sign new contracts for what is probably our property, especially while Canberra refuses to discuss maritime boundaries with East Timor?

This Agreement is a product of coercion

Australia's record and statements over the past two years indicates that its self-interest takes priority over legal and humanitarian considerations, as well as over justice. The Australian government essentially blackmailed East Timor into signing this Unitisation Agreement. We are not privy to the details of what made the negotiations so difficult. It is clear that Australia held the Bayu-Undan project hostage by delaying ratification of the Timor Sea Treaty until East Timor signed the Sunrise IUA. The Australian government thereby violated its commitment "that the Treaty is suitable for immediate submission to their respective treaty approval processes and to work expeditiously and in good faith ... for the entry into force of the Treaty."¹¹ We hope Australia's word will mean more in the future, but we are more sceptical than we were before.

In a perhaps Freudian slip, the National Interest Analysis for the current IUA indicates that Royal assent for the Timor Sea Treaty's entry into force was given on 2 April 2002, not 2003.¹² We hope this small rewriting of history is not indicative a larger effort to obscure the bullying tactics Australia is using toward East Timor, and we encourage your country to rethink its negotiation strategy.

⁸ Woodside Petroleum Ltd. *Concise Annual Report* for 2002, page 83. "10-Year Comparative Data Summary". This report gives Woodside's sales, but the entire field's sales are calculable by dividing by Woodside's share.

⁹ Australian Department of Industry, Tourism and Resources, *Release of Offshore Petroleum Exploration Areas*, CD-ROM published annually.

¹⁰ Australian Department of Industry, Tourism and Resources, *Australian Petroleum News*, October 2002.

¹¹ Exchange of Notes Constituting an Agreement Between the Government of Australia and the Government of the Democratic Republic of East Timor Concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea Between Australia and East Timor, Dili, 20 May 2002.

¹² Australian Department of Industry, Tourism and Resources, Timor Sea Team. *National Interest Analysis: Agreement Between the Government of Australia and the Government of the Democratic Republic of Timor-Leste Relating to the Unitisation of the Sunrise and Troubadour Fields, Done at Dili on 6 March 2003*. Paragraph 10.

It was neither respectful nor appropriate for your Foreign Minister to lecture our Prime Minister "To call us a big bully is a grotesque simplification of Australia. We had a cosy economic agreement with Indonesia, we bailed East Timor out with no economic benefit. Our relationship is crucially important, particularly for you, East Timor. The two countries you can count on the most are Portugal and Australia. ... On principle we are surprisingly inflexible. ... We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics - not a chance."¹³

Is that how Australia wants its Ministers to behave?

During the same heated meeting, Mr. Downer told Mr. Alkatiri: "There are not one but two areas of unfinished business: the IUA and the renegotiation of maritime boundaries. In good faith we absolutely agree to enter into negotiations. There is a whole range of issues involved: the questions of sea bed boundaries, water column boundaries..." Mr. Downer repeatedly mentioned "renegotiation" of maritime boundaries although East Timor has never had maritime boundaries and this will be a negotiation, not a renegotiation.

At the November meeting Mr. Downer agreed to establish a Joint Maritime Commission early in 2003 to begin these discussions, and he has since made similar promises. But a half year later, in spite of repeated requests from Dili, negotiations have not started.

Is this what "good faith" means in Australia?

Information for your attention

Although we do not expect the Australian parliament to heed East Timorese civil society's call for a fairer or different version of this agreement, we believe the Honourable Members of the Australian Parliament should have accurate information.

The description of East Timor's economic situation in the National Interest Analysis is outdated and inaccurate. Annex 3 of the NIA uses statistics from 1999 – and everything here has changed drastically since then. Using projections for three-year-old data, from 2000, is not responsible.

Annex 3 says that 7.8% of East Timor's "labour force (is) looking for work"¹⁴, but in reality unemployment here is much higher. The World Bank recently reported that "Unemployment is at least 20 percent in urban areas and is particularly high among 15 to 24 year olds."¹⁵ Others have put the figure far higher, and there is massive underemployment as well.

We are a small, poor, new country, struggling to construct and rebuild from decades of brutal occupation and war. Although the international community, including Australia, has poured significant aid money into East Timor since 1999, very little of that has remained in our country, and only a small portion has been under the control of our elected government.

The amount of Australian assistance to East Timor is often overstated by Australian media and political leaders.¹⁶ Your country has been generous in recent years, but not more than Portugal or

¹³ Transcript of 27 November 2002 negotiation session in Dili, as released on www.crikey.com.au. Although the Australian Parliament rejected Mr. Fitzgibbon's request to include this transcript in the House Hansard on 6 March 2003, we encourage you to read it in full, and would be glad to provide a copy.

¹⁴ Annex 3, NIA (see note 12), Economic Indicators table.

¹⁵ Trust Fund for East Timor (TFET). *Report of the Trustee and Proposed Work Program for July - December 2003*, distributed at the Donors' Council Meeting, Dili, Timor-Leste, June 3, 2003

¹⁶ Australia has only one battalion in East Timor, and it is not legitimate to "charge" East Timor for the two new battalions of the Australian Defence Force, which ADF has wanted for a long time and which will probably continue after Australian Peacekeepers withdraw from East Timor next May. Australia's Treasurer asserts that these 1,000 troops will cost Australian taxpayers more than A\$500 million next year – a half million dollar per soldier. ("Timor costing up to \$600m a year," *The Australian*, 21 May 2003.) We do not find this figure credible, as the annual budget for the entire military component of UNMISSET – less than one fourth of whom are Australians – is under A\$300 million, of which A\$76 million is paid to the Australian government for its military contribution. Furthermore, the soldiers would have to be trained, housed, fed, paid and equipped even if they were not in East Timor. If Australian taxpayers are spending as much as Mr. Costello says, most of it is

Japan, who have historically occupied our country. The current Australian occupation of oil and gas fields on East Timor's side of the median line have brought in more revenue than you have given us in aid. We hope your government uses more accurate information for decision-making than it does in speaking to the media.

Australia should not obstruct oil and gas developments East Timor for a secure future.

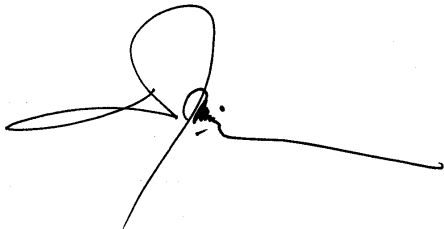
If East Timor is to survive as a stable democracy, with a decent quality of life for our citizens and the capacity not to threaten or burden our neighbours, we need to know the boundaries of our nation and to receive the fruits of our labour and resource entitlements. This is not only in East Timor's interest, but also in Australia's. Given your recent national controversy over whether 1,500 East Timorese refugees should be allowed to stay in Australia, we are surprised that your government is enacting policies which could multiply the refugee problem a hundred-fold.

Whether or not East Timor ratifies this Agreement quickly, we hope that Australia will not obstruct oil and gas developments inside the JPDA, including the Bayu-Undan and other projects. The security of our nation, our region, and our neighbours depends on East Timor receiving its deserved oil revenues as planned, and upon the completion of our process of self-determination.

Whether or not the Australian Parliament ratifies the Unitisation Agreement for the Sunrise and Troubadour oil and gas fields, we hope that Australia will soon rejoin the community of law-abiding nations, entering negotiations and restoring the possibility of judicial determination of maritime boundaries.

Only then will we be able to live together as neighbours, respecting each other's sovereignty and working together for the best outcomes for the people of both our nations.

For further information or questions, contact:



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either wasted or for Australia's own benefit, and should not be considered as part of Australia's aid to East Timor.