



JSCOT Submission

Timor Treaty – Maritime Boundaries

The Timor Treaty Maritime Boundary Treaty (“Proposed Treaty”) must not be ratified by the Australian Government for the following reasons:

- 1.1 The Proposed Treaty is deficient as it does not provide re-dress for the prior treaties inert condensates from the petroleum extracts, such as Helium, as featured in the Four Corners documentary which aired on television a number of years ago.
- 1.2 I am aware from Timorese oil officials I met in Dili they have not been compensated appropriately for the extract of inert condensates under the current treaties. Inert gases are of significant value and are not dealt with in the prior Treaty and are not compensated for in the Proposed Treaty.
- 1.3 The proper downstream division of those inert condensates has not been adequately addressed to date in the current treaties and will likely be a matter of protracted legal dispute, this could have been avoided if the existing gas and oil treaties and the Proposed Treaty were properly prescriptive and not deficient in regards to the downstream treatment of petroleum inert condensates. The significant Helium extraction plant built to run in conjunction with the existing LNG plant is a significant asset providing a substantial income stream for its owners, none of which is going to Timor-Leste or Australia.
- 1.4 The past treaty fails to adequately recognise and address the refining royalties and taxation and sale of the inert condensates Helium and on this basis commits a fraud on Timor-Leste. It would appear there is no intention to correctly account for this asset and the income stream it provided which is to the detriment of the nation of Timor-Leste. The Treaty is sufficiently deficient that it cannot be approved by the Liberal Australian Government and the Liberal majority JSCOT Committee who will fail to properly review the shortfalls in this Proposed Treaty and omits critical financial detail in the unfair downstream contracts.
- 2.1 The Proposed Treaty boundaries area now identifies the areas covered by the Corallina, Laminaria, Buffalo and other oil fields as rightly belonging to Timor-Leste (refer **Attachment A**). These boundaries are now largely consistent with International Maritime Sea Boundary Law and had the court case between Australia and Timor-Leste proceeded in the Hague to a conclusion, the currently proposed boundary would have likely been confirmed by the Court in its reasonings as being closely aligned to the Proposed Treaty.
- 2.2 The normally accepted international protocol of holding funds from a disputed resource area in escrow or in trust until the dispute is resolved was not adhered to by the Liberal

Howard / Downer Australian government and in the order of \$3 to \$4+ billion¹ was received by the Australian Government in taxation, royalties and levies from the Corallina, Laminaria, Buffalo and other oil fields – see the attached La’o Hamutuk article (**Attachment B**). It appears there is no reparation, pay back or compensation for the Howard / Downer governments improper action in not holding those funds in escrow. In 2004 to 2006 I highlighted this issue in a media campaign.

2.3 Conceding these areas will now belong to Timor-Leste after the assets have been removed needs to be properly addressed, I consider this to be fraud on Timor-Leste by the Australian government by the Liberal / Howard / Downer government and now the Turnbull / Bishop government.

2.4 To simply move forward without correcting a very significant past wrong is not acceptable. If the situation was reversed Australia would not accept what is in simple terms the theft of \$3 to \$4+ billion – Australia would seek to recover the funds from whichever country had taken the funds from Australia. Had the country Australia was going to steal from been a significant or powerful country Australia would not have attempted what has happened.

2.5 This Treaty does not address the issue of fairness and could easily cause Timor-Leste to seek friendship and closer relationships with countries such as China who may be less likely to defraud Timor-Leste and treat the Timorese fairly. It may not be in Australia’s long term best interests to increase China’s military presence in our region, this could easily happen if Australia continues with its past and current behaviour.

2.6 Timor-Leste is a poor country and its people endure significant health issues, which I have witnessed directly and been personally impacted by. Timor-Leste also had its people tortured, killed and abused under the 24 year Indonesian military occupation. These crimes were not committed by the Indonesian people, who if asked to authorise the crimes would have said “No”. The crimes were committed by the Indonesian military, not the Indonesian people. Similarly, I am of the opinion the Australian people would say “No” to the fraud on the Timorese people that the Australian government is committing with this Proposed Treaty if the background and facts were clear to the Australian people.

2.7 This Treaty is dishonest on many fronts and I, as an Australian citizen, do not authorise my government to steal from the Timorese on my behalf. It is only fair that the repayment of revenues and royalties taken after the Howard / Downer government unethically withdrew recognition of the United Nations International Maritime Sea Boundary Law (which became public knowledge on 25 March 2002, 2 months before Timor-Leste became a nation) now occur. After being caught illegally spying on the Timorese Cabinet room, Australia is now re-instating the international sea boundaries

¹ https://www.laohamutuk.org/Oil/Boundary/laminaria_revenues.htm

but without repayment to Timor-Leste of the billions of dollars in taxation and royalties taken by the Australian government during the more than decade long non-compliance period with internationally accepted sea boundaries and has allowed helium to be sold without Timor-Leste or Australia obtaining benefit.

- 2.8 I conducted a national advertising campaign in 2004 to 2006 which increased public awareness of Australia's appalling treatment of Timor-Leste in the maritime sea boundary dispute at that time. When I started the campaign against the Howard / Downer governments action during the 2004 election I had never spoken to a politician, never written a letter to a politician, never been to a rally and was totally inexperienced. I am now experienced and can conduct a campaign financially efficiently and focused and I have substantially more resources. In the 2004 election campaign I started late and focused on three marginal Liberal seats on Adelaide, two of which changed to Labor, with the third seat held by Christopher Pyne swinging to a more marginal position. I am not anti-Liberal, I am however anti-theft, especially from a poor country, and if a marginal seat campaign over this issue assists Labor into power, Australia will likely be financially disadvantaged during and for some years after a Labor government came into power. A thorough examination of the Howard / Downer governments actions over the conduct with Timor-Leste and the cabinet spying and related transaction has not been conducted and would not fare well for the reputation of the Liberal governments of past and present, of then staffers and politicians. I believe it would appear to the public as organised corruption, especially with past politicians being rewarded by large companies involved with the petroleum extraction and this would be part of the on-going campaign. Australia's improper conduct if advertised in Asia would likely create an anti-Australian government movement.
- 3.1 The current JSCOT Committee has a majority Liberal party representation which, based on past history, is likely to expedite the Proposed Treaty without proper oversight and review.
- 3.2 The most recent treaty was the Certain Maritime Arrangements in the Timor Sea ("CMATS") in 2007. On that occasion, members of JSCOT were derelict in their duties. They recommended that a flawed treaty be ratified. It is important that a similar mistake not be made. For these reasons, I remind the current members of JSCOT of the opportunities that their predecessors missed.
- 3.3 In 2007, then-Foreign Minister Alexander Downer invoked a rarely used "national interest" exemption clause to fast-track ratification of CMATS through the Australian parliament. It is now clear JSCOT was unable to properly consider CMATS because the "national interest" exemption was used. Ironically this has now proven not to be in Australia's national interest. The national interest exemption had been used only six times before. Downer waited more than 12 months before tabling CMATS, although he advised Parliament in February 2006 that it would be brought forward quickly for public consideration.

- 3.4 Under CMATS, government revenues from oil and gas resources in the Greater Sunrise field were shared equally between Australia and East Timor, even though the field is twice nearer to East Timor. CMATS prevented East Timor from determining its own maritime boundary under normal principles of international law.
- 3.5 When East Timor tried to take the boundary issue to the International Court of Justice, Australia withdrew from its jurisdiction, preventing a lawful, impartial settlement. CMATS extended Australia's occupation of East Timor's maritime territory for at least another 50 years.
- 3.6 CMATS prevented the use of courts or other impartial mechanisms for resolving disputes, insisting on direct negotiations between Asia's newest, most inexperienced country and its wealthiest, most sophisticated country. If there was a dispute between Russia and the United States, the United States would never have used a Russian legal firm for legal representation. Timor-Leste used an Australian legal firm, this is an obvious example of Timor-Leste's inexperience.
- 3.7 The Australian government has acquired more than five billion dollars from fields that should have rightfully gone to East Timor. The Proposed Treaty boundaries give the area to Timor-Leste after the \$4+ billion of taxation and royalties has been taken by Australia.
- 3.8 According to information that became public some years later, the Australian government diverted ASIS's valuable resources from the campaign against 'extremist-Muslim' terror groups in Indonesia, and ordered it to undertake an espionage operation against the East Timorese leadership in Dili. The espionage operation provided Australia with secret access to East Timor's internal deliberations and negotiating tactics. Had these intelligence resources not been moved to focus on Timor-Leste, the Bali bombings, in which 88 Australian's died, could possibly have been avoided.
- 3.9 Some months later, the Secretary of the Department of Foreign Affairs and Trade, Dr Ashton Calvert, retired and joined the board of directors of Woodside Petroleum. The responsible Minister, Alexander Downer, worked as a lobbyist for Woodside after leaving Parliament in 2008. These appointments, it has been argued, may have been made with an element of gratitude for past possibly inappropriate government assistance given to Woodside Petroleum.
4. I **do not** authorise my government to steal on my behalf from a country which, when I became involved in 2004, was the poorest country in Asia. It is not a good look domestically or internationally for the Australian government to steal from the "have nots". For Australia, as a developed, wealthy, sophisticated country to have to exploit a poor, inexperienced, third world country is unacceptable and belongs to a past gone era.

For the benefit of all parties please do not sign the Proposed Treaty until the issues raised have been fairly resolved.

Yours sincerely,

A black rectangular redaction box covering the signature of Ian Melrose.

Ian Melrose

A black rectangular redaction box covering contact information, likely a phone number or email address.