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Submission of the Synod of Victoria and Tasmania, Uniting Church in Australia to the Senate Standing Committees on Economics Inquiry into *Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2018* and *Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2018* 11 January 2019

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes the opportunity to make a submission to the inquiry into the *Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2018* and *Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2018* which partially implements the *Treaty between Australia and the Democratic Republic of Timor-Leste establishing their maritime boundaries in the Timor Sea*. The Synod of Victoria and Tasmania welcomes the treaty and the spirit in which the Australian Government negotiated it. The Synod therefore requests that the Committee recommend the rapid passage of the Bills through the Australian Parliament.

The Synod has strongly supported that Timor-Leste be able to have a permanent maritime boundary based on the international law governing maritime boundaries. This view was supported by a majority of 10,271 Australians polled by ReachTEL in August 2016.¹ The poll found that 56.5% of those polled supported that the Australian Government should try to establish a permanent maritime boundary with Timor-Leste in accordance with international law. Only 17% opposed doing so, with 26.5% undecided.

The Uniting Church in Australia has been an advocate for and friend of the people of Timor-Leste for a long time and wants Timor-Leste to have the resources it needs to be self-sufficient. The Uniting Church in Australia is a partner church of the Protestant Church of East Timor (IPTL: Igreja Protestante iha Timor Lorosa'e).

The 2002 Synod meeting of approximately 400 representatives of Uniting Church congregations across Victoria and Tasmania resolved

Noting Assembly resolution 94.18.05 which called upon the Australian Government to recognise the right to self determination of the East Timorese people and noting the significant development needs of East Timor:

¹ The Australia Institute, 'Australians back Timor-Leste in maritime dispute', 14 November 2016.



- (a) *To request the Federal Government to ensure that East Timor receives sovereignty over all of the oil and natural gas deposits in the Timor Sea that it would be entitled to under the international law governing maritime boundaries;*
- (b) *To request the Federal Government to allow East Timor to have any maritime boundary dispute with Australia resolved through the International Court of Justice or the compulsory dispute resolution mechanisms of the UN Convention on the Law of the Sea;*
- (c) *To inform the Prime Minister, the Minister for Foreign Affairs, the Leader of the Opposition and the Shadow Minister of Foreign Affairs of this resolution.*

The 2016 meeting of approximately 400 representatives of Uniting Church congregations across Victoria and Tasmania resolved:

- (i) *Noting Synod resolution 02.6.4.6, To renew the 2002 to call on the Federal Government to negotiate in good faith a permanent maritime boundary with Timor L'este. If the boundary cannot be established through good faith negotiations, then to allow Timor L'este to have any maritime boundary dispute with Australia resolved through the International Court of Justice or the compulsory dispute resolution mechanisms of the UN Convention on the Law of the Sea.*
- (ii) *To inform the Prime Minister, the Minister for Foreign Affairs, the Leader of the Opposition and the Shadow Minister of Foreign Affairs of this resolution.*

A permanent maritime boundary will deliver Timor-Leste billions more in tax revenue from taxes on natural gas extraction in the Timor Sea. That is money Timor-Leste could use to provide schools, health clinics, aged care and support for people with disabilities. The Australian Government could easily replace this reduction in revenue from natural gas and oil by introducing a Commonwealth royalty regime on its natural gas and oil deposits that are currently subject to no royalties and/or by reform of a flawed Petroleum Rent Resource Tax (PRRT). The current design flaws in the PRRT sees the Australian Government giving away much of Australia's natural gas deposits off-shore for free to large multinational enterprises.

The commendable efforts that the governments of Timor-Leste have made in improving the lives of the people of Timor-Leste and the important role that revenue from oil and gas deposits have played is well summarized by the World Bank in March 2017:²

Over the past decade, Timor-Leste has created the conditions for successful development. It has credibly emerged from a crisis of internal violence and political instability in 2006-2007 and increased tangible services for the population, creating hard-won political stability, absence of conflict and a new confidence in the state. Largely peaceful democratic elections for the presidency and the parliament since 2012 reflect these achievements.

Timor-Leste has achieved tremendous progress since achieving Independence in 2002 – drawing down money from the Petroleum Fund and channeling it through the budget to meet pressing needs. The effectiveness of this process is evident in the near-halving of infant and child mortality rates; significant gains in health and education; economic growth to rival regional neighbors; increasing citizen participation, and; the gradual strengthening of state institutions.

² <http://www.worldbank.org/en/country/timor-leste/overview> as of March 2017



Ensuring Timor-Leste's young people are educated, healthy, and productively employed are arguably the biggest development challenges facing Timor-Leste over the next decade. With 60% of the population under 25 years of age, Timor-Leste is one of the youngest countries in the world. Benefitting from high global oil prices, the country achieved lower middle-income status in 2011, but poverty remains high, particularly in rural areas, where the majority of the population lives.

The Timor-Leste governments have made significant progress at reducing poverty since 2007. At the national poverty line, which represents the cost of meeting basic needs in relation to food, shelter and non-food items in Timor-Leste, the proportion of Timorese living in poverty declined from 50.4% in 2007 to an estimated 41.8% in 2014. At the internationally comparable extreme poverty line of US\$1.90 (in 2011 purchasing power parity dollars), poverty in Timor-Leste fell from 47.2% to 30.3% over the same period.³

The World Bank also expressed the view that the Government of Timor Leste has done well in preserving the revenue from the natural gas and oil deposits it has had access to, avoiding the resource curse of spending it all unproductively:⁴

While Timor-Leste has succeeded in saving the proceeds of its natural resource endowment, the key challenges now are to ensure that these fiscal resources are not squandered, and the natural environment is preserved as an important economic and social resource for future generations. Thanks to petroleum resource development, and the government's astute management of petroleum revenues, Timor-Leste now has a sizeable financial reserve to support development.

As the World Bank further points out in terms of the management of the government revenue from natural gas and oil deposits⁵:

Petroleum revenues are regulated by the Petroleum Fund law and are not automatically available to the government – since any transfer from the Petroleum Fund requires parliamentary approval. The Petroleum Fund law provides for an Estimated Sustainable Income (ESI), which is set at 3 percent of total petroleum wealth – i.e. the current Petroleum Fund balance plus the net present value of anticipated future petroleum revenues – reflecting the annual amount that can be sustainably withdrawn from the Petroleum Fund for budget financing.

The Synod supports the rapid ratification of the *Treaty between Australia and the Democratic Republic of Timor-Leste establishing their maritime boundaries in the Timor Sea* and is disappointed that this will not occur with the passage of these two Bills, but will need to wait for a second tranche of legislation to be passed later this year. Every month of delay means Australia continues to receive 10% of the revenue generated by the Bayu Undan deposit, estimated at US\$4 million a month. That is finance that means much more to the well-being of the people of Timor Leste than to Australian Government revenue.

³ World Bank, 'Poverty in Timor-Leste 2014', 2016, 3.

⁴ World Bank Group, 'Timor Leste. Systemic Country Diagnostic. Pathways for a New Economy and Sustainable Livelihoods', 16 November 2018, xi, <http://www.worldbank.org/en/country/timor-leste/publication/pathways-for-a-new-economy-and-sustainable-livelihoods>

⁵ World Bank Group, 'Regaining Momentum? Timor-Leste Economic Report', October 2018, 5, <http://www.worldbank.org/en/country/timor-leste/publication/october-2018-timor-leste-economic-report-regaining-momentum>



The Synod is concerned that the Australian Government will continue to hold onto all the revenue gained from the gas and oil deposits that have been exploited before this treaty was finalized, that had this treaty been in place the Australian Government would not have had access to. We support the view of the Timor Leste NGO La'o Hamutuk:

Article 10 of the new Boundary Treaty says that Timor-Leste shall not “have a claim for compensation” for money collected by Australia under prior treaties and agreements, which totals around five billion dollars. However, nothing in the Treaty prevents Australia from voluntarily returning this stolen money to Timor-Leste. The preamble of the Treaty mentions “promoting Timor-Leste’s economic development” and being “good neighbors and in a spirit of cooperation and friendship ... in order to achieve an equitable solution.” In this new spirit of mutual respect, it would be appropriate for Australia to give back what it took during the nearly three decades since it signed the Timor Gap Treaty in order to profit from Indonesia’s brutal and illegal occupation of Timor-Leste.

The Synod is not clear how the overly generous tax credits related to the Petroleum Resource Rent Tax (PRRT) will be treated for the corporations that have operated Greater Sunrise projects since 2004. The Synod believes the Committee should ensure that the tax credits granted by the Australian Government to corporations that have been operating in the Greater Sunrise area do not impact on any future royalty revenue imposed by the Timor Leste Government on the corporations involved. While the Australian Government is free to grant generous tax credits to multinational corporations for activities conducted within the Australian jurisdiction, these should not impact on the ability of the Government of Timor Leste to set royalty arrangements in place in relation to the part of the development that falls under their jurisdiction.

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