

**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**

Documents tabled on 14 May 2002:

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SUMMARY PAGE

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

Date of Tabling of Proposed Treaty Action

1. The NIA with annexures and text of treaty action is being tabled on 14 May 2003.

Nature and Timing of Proposed Treaty Action

2. It is proposed to bring into force 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.
3. On Australia's side this requires notification in writing to East Timor that Australia's requirements for entry into force of the Treaty have been complied with, and *vice versa* on East Timor's side. Entry into force will occur on the later of the two notifications. The Government aims to have the Treaty in force by the end of 2003.

Overview and National Interest Summary

4. The Timor Sea between northern Australia and East Timor contains proven petroleum resources in the seabed. The Treaty is applicable to the Sunrise and Troubadour petroleum deposits (collectively known as Greater Sunrise), which extend across the eastern boundary of the Joint Petroleum Development Area (JPDA) created under the Timor Sea Treaty. The latter treaty enables Australia and East Timor to jointly develop the petroleum resources in the JPDA, pending agreement on a seabed boundary.
5. Annex E under Article 9(b) of the Timor Sea Treaty provides for unitisation of the Greater Sunrise field on the basis that 20.1% of the resources of the field lies within the JPDA, and attributes 20.1% of production from Greater Sunrise to the JPDA, and 79.9% to Australia. Unitisation refers to the treatment of a field straddling a jurisdictional boundary as a single entity for management and development purposes.
6. The Treaty benefits Australia and gives certainty to investors by providing a financial framework and international legal basis for development of the Greater Sunrise deposit in the Timor Sea. Although the Greater Sunrise field is not likely to be developed until 2009, for the companies that will produce petroleum from the field the Treaty will allow them the certainty needed to make important investment decisions.
7. Australia is not party to any other international unitisation agreements for petroleum fields.

Reasons for Australia to Take the Proposed Treaty Action

8. The Treaty provides a comprehensive framework for the joint development of the Greater Sunrise field, lying in a defined Unit Area. It covers matters such as administration of the Unit Area, taxation, process for approval of a development plan, abandonment provisions, point of sale and valuation of petroleum recovered from the field, employment and training, safety, occupational health and safety, environment protection, customs, security and dispute settlement mechanisms. By Article 2, the Treaty is without prejudice to both Australia's and East Timor's maritime claims in the Timor Sea.
9. The resource potential of the Timor Sea was initially the subject of the 1989 Timor Gap Treaty between Australia and Indonesia. With the separation of East Timor from Indonesia on 25 October 1999 Australia entered into an Agreement with the United Nations Transitional Administration in East Timor (UNTAET) (the February 2000 Agreement) to allow Australia and East Timor to benefit from the continuation of exploration and exploitation activities in the Timor Sea.
10. Recognising that the February 2000 Agreement would end upon East Timor's independence, Australia and UNTAET/East Timor began negotiations to develop a framework for the joint development of Timor Sea resources. Subsequently, the Timor Sea Treaty was signed in Dili on 20 May 2002, the date of East Timor's independence. Legislation to enact that treaty received the Royal assent on 2 April 2003, upon which day Australia and East Timor exchanged notes stating that their requirements for it to enter into force had been met.
11. Article 9 of the Timor Sea Treaty provides for any reservoir of petroleum that extends across the boundary of the JPDA to be treated as a single entity for management and development purposes and contemplates that Australia and East Timor will reach a separate agreement on the manner in which the deposit will be exploited, and on the sharing of such a deposit. The Greater Sunrise field is one such reservoir of petroleum. Article 9 thus envisages the negotiation of an international unitisation agreement covering the Greater Sunrise field.
12. Greater Sunrise contains around 8.4 trillion cubic feet of natural gas and 295 million barrels of condensate, with a value estimated to be over \$A20 billion after allowing for production costs.
13. Under Annex E of the Timor Sea Treaty, the Greater Sunrise field is to be unitised on the basis that 20.1% of the field's reserves are located within the JPDA, the remaining 79.9% being attributed to Australia. In line with the general revenue-sharing provisions of that Treaty, of the 20.1% of the Greater Sunrise field attributed to the JPDA, 90% of the petroleum resource and therefore revenue goes to East Timor, with 10% going to Australia.
14. On this basis, development of the field is currently estimated to provide Australia with about \$8.5 billion in revenue over the life of the field, if developed using floating gas-to-liquids technology, with exports potentially worth about \$A1.5 billion to Australia annually.
15. The joint venturers, Woodside, Shell, ConocoPhillips and Osaka Gas (hereafter, the Sunrise Joint Venturers), are currently assessing options for development of Sunrise petroleum. The two main alternatives are a floating gas-to-liquids facility or a proposal that Sunrise gas be processed onshore in the Northern Territory. Regardless of the method used, production from the field is not likely to occur before 2009, at the earliest.

Obligations

16. Article 3 requires the Greater Sunrise field to be exploited in an integrated manner and in line with the terms of the Treaty, and that both Australia and East Timor ensure compliance by the Sunrise Joint Venturers with those terms.

17. Article 4 establishes that unless otherwise stated, the Timor Sea Treaty applies to petroleum activities within the JPDA, pursuant to the apportionment ratio, while Australian legislation applies to activities within the part of the Unit Area outside the JPDA.
18. Article 5 obliges Australia and East Timor to require the Sunrise Joint Venturers to conclude an agreement regarding the exploitation of the Greater Sunrise field. In the event of any inconsistency between that agreement and the Treaty, the latter will prevail. The agreement may only be modified with the approval of the regulatory authorities of Australia and the JPDA.
19. Article 7 apportions 20.1% of the Greater Sunrise field to the JPDA and 79.9% to Australia. By Article 10, all receipts and expenditures up to the petroleum valuation point defined in Article 15 (see paragraph 25) will be apportioned in accordance with this ratio.
20. Article 8 provides for the apportionment ratio outlined above to be redetermined on technical grounds at the request of either Australia or East Timor. Any redetermination on technical grounds may not occur within five years of a prior redetermination. Reapportionment on other grounds may occur at any time by agreement of the parties.
21. Article 9 establishes a Sunrise Commission for the purpose of facilitating the implementation of the Treaty. Of the Commission's three members, two are nominated by Australia.
22. Article 11 provides that for the purpose of company taxation, resource taxation, cost recovery and production sharing, receipts and expenditures within the JPDA will be taxed in accordance with the arrangements specified in the Timor Sea Treaty, while those in the part of the Unit Area outside the JPDA will be taxed in accordance with Australia's domestic taxation arrangements.
23. Article 12 requires that production not commence until a Development Plan for the effective exploitation of the Greater Sunrise field has been approved by the regulatory authorities of Australia and the JPDA.
24. For the purposes of exploiting the Greater Sunrise field and subject to customs and safety requirements, Article 14 states that neither Australia nor East Timor may hinder the free movement of personnel and materials between structures located in the JPDA. Furthermore, landing facilities on those structures will be freely available to vessels and aircraft of both countries.
25. Article 15 provides for title to petroleum produced from the field to pass from Australia and East Timor to the contractor acting in the JPDA at the Valuation Point. This is the taxing point and point of valuation for cost recovery and production sharing purposes for petroleum attributed to the JPDA. By Article 1(t), the valuation point is the point of the first commercial sale of petroleum produced from the field, which occurs no later than the earlier of:
 - (i) the point where the petroleum enters an export pipeline; and
 - (ii) the point where the petroleum becomes a marketable petroleum commodity (defined in Article 1(h)).
26. Article 16 ensures that an appropriate petroleum valuation will be made when a licensee or contractor has entered into contracts for the sale of petroleum from the field apportioned to the JPDA.

27. Article 17 allows for the use of Greater Sunrise facilities for petroleum other than Sunrise petroleum, subject to such use not adversely impacting on the production of petroleum from Greater Sunrise.
28. Article 18 provides, with due regard to occupational health and safety requirements, efficient operation and good oilfield practice, for preference in employment to be given to East Timorese nationals and permanent residents.
29. Articles 19 to 25 contain provisions on safety, occupational health and safety, environmental protection, customs, security arrangements, measuring systems and the exchange of information.
30. Article 26 specifies that disputes under the Treaty are to be settled by consultation and negotiation. Failing resolution by these means or by any other agreed procedure, the dispute may be submitted (subject to certain conditions) at the request of either Government to an Arbitral Tribunal constituted in accordance with Annex IV to the Treaty.

Implementation

31. It is likely that consequential amendments will be required to some legislation, such as that set out in Annex III to the Treaty, which is legislation applicable in the Unit Area in relation to safety, health and environmental protection. This is currently under review. If legislation is required, it will likely be introduced to Parliament in the Spring sitting period in 2003.

Costs

32. Australia will incur no additional costs directly through this treaty action.

Consultation

33. The Treaty was developed in consultation with the Sunrise Joint Venturers and the Government of the Northern Territory. More information on consultations can be found in Annex 1.

Regulation Impact Statement

34. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

Future Treaty Action

35. Article 27 specifies that the Treaty may be amended or terminated at any time by written agreement between the two countries, and in the event of a permanent delimitation of the seabed between Australia and East Timor, both parties will reconsider the terms of the Treaty.
36. Any petroleum activities taking place under the terms of the Treaty would continue under equivalent terms in any new agreement.

Withdrawal or Denunciation

37. The Treaty does not contain express provisions dealing with withdrawal or denunciation. In these circumstances it is possible to withdraw from the Treaty at any time by consent of both the parties (by virtue of Article 54 of the Vienna Convention on the Law of Treaties).

Contact details

Timor Sea Team
Resources Division
Department of Industry, Tourism and Resources

CONSULTATIONS

Woodside, on behalf of the Sunrise Joint Venturers (see paragraph 15) have been involved throughout the development of the Treaty. At the outset, they provided what they saw as the essential elements that needed to be addressed. They were also provided with several opportunities to comment on drafts of the Agreement and met with Commonwealth officials on a number of occasions. Throughout the process, they strongly supported the need for the Agreement, and made constructive comments on its content.

In addition, the Northern Territory Government participated in the negotiations, as an observer.

EAST TIMOR POLITICAL BRIEF

The Democratic Republic of East Timor (Timor-Leste) became an independent state on 20 May 2002. It has a unicameral parliamentary system of government and an elected president as the Head of State. The National Parliament has 88 elected members, comprised of 75 national and 13 district seats. Over one-quarter of the parliamentarians are women. Fretilin is the dominant political party, having won 55 seats in East Timor's first democratic election on 30 August 2001. The United Nations Mission of Support in East Timor (UNMISET) provides support to the government of East Timor in the areas of public administration, law and order, and external security. The UN is scheduled to exit in June 2004.

East Timor is one of the poorest countries in the Asia Pacific, with an annual per capita GDP of US\$478 (2001 data) and a fragile economic base. East Timor's economic prospects and scope for trade and investment are modest. In the years ahead, economic activity is expected to slow as the UN and international presence is wound back. Revenues from gas and oil reserves in the Timor Sea will underpin East Timor's economic future.

East Timor is a member of the United Nations, World Bank, International Monetary Fund and the Non-Aligned Movement. The new nation has given high priority to membership of ASEAN and the ASEAN Regional Forum.

East Timor's population of some 800,000 is predominantly Catholic and proto-Malay. The official languages are Portuguese and Tetum, with Bahasa Indonesia and English considered to be working languages.

Australia has a strong bilateral relationship with East Timor. We have worked hard, together with the United Nations and other members of the international community, to bring to an end the violence in East Timor, to rebuild the world's newest nation, and to help put in place the foundations of statehood. Australia led the International Force in East Timor (INTERFET) coalition that restored security and stability in East Timor. Today, Australia continues to be a lead donor to East Timor and is one of the largest contributor of personnel – military, police and administrators – to the United Nations mission in East Timor.



Statistics are drawn from the United Nations' East Timor Human Development Report (May 2002) and are estimates only of 2001 figures unless otherwise stated. See further www.undp.east-timor.org/National_Human_Development_Report_2002.htm.

General Information:

Population:	794,298	Local name:	Timor-Leste
Urban population:	23.5%	Capital:	Dili
Life expectancy:	57.4 years	Surface area:	14,874 sq km
Major religion:	Roman Catholic	Literacy rate:	43%
Languages:	12, including Tetum (official), Portuguese (official), Indonesian and English		

Governance:

The Democratic Republic of East Timor assumed independence on 20 May 2002.

Head of State:	President Kay Rala Jose Alexandre (Xanana) Gusmão
Head of Government:	Prime Minister Dr Mari Bin Amude Alkatiri

Economic indicators:

	1998	1999 (estimate)	2000 (projection)	2001 (projection)
GDP (US\$m)	390	263	312	380
GDP per capita (US\$)	424	337	396	478
Real GDP growth (% change)	-2	-38	15	18
Inflation (% change) (IMF est)	80	140	20	3
Current account balance (US\$m) (IMF est)	-19	7	-3	-467
Population beneath poverty line:	41%			
Labour force looking for work:	7.8%			

Relations with Australia:

Aid. Australia is a major donor to East Timor and is mid-way through a A\$150 million four-year aid program (2002-03: \$36m). Commonwealth and State agencies also provide significant additional assistance.

Policing and Military Assistance. Australia contributes 45 personnel to the UN Police and some 1,100 Australian Defence Force (ADF) personnel to the UN peacekeeping force. Numbers will decline with the general draw-down of the UN mission. The ADF is also helping to establish and train the East Timor Defence Force.

Trade. In 2000, Australian exports totalled A\$55m; East Timorese exports to Australia were negligible. Both nations will profit in the future from jointly-controlled oil and gas resources in the Timor Sea. Australia has agreed to grant East Timor tariff free access to Australian markets.

OTHER TREATIES BETWEEN AUSTRALIA AND EAST TIMOR

- 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 East Timor and Australia
[2002] ATS 11
- Timor Sea Treaty
[2003] ATS 13