



East Timor *and* Indonesia Action Network (ETAN)

PO Box 21873, Brooklyn, NY 11201-1873 USA

718-596-7668; cell: 917-690-4391

email: etan@etan.org

website: www.etan.org

Submission to Joint Standing Committee on Treaties Inquiry into Maritime Arrangements Treaty with East Timor

To: Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600
Via e-mail: jsct@aph.gov.au

The Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS) does not serve the people of either Australia or Timor-Leste. Australia has put its own and some oil companies' short-term financial interests over fundamental principles of democracy, the rule of law, economic justice, and respect for national sovereignty. This treaty and the way it was negotiated and ratified will only sow the seeds of long-term animosity and conflict between Australia and its neighbor to the north.

Australia and the oil companies put tremendous pressure on the government of Timor-Leste and took advantage of its people's poverty and their inexperience with negotiations and self-government. The Australian government should be embarrassed for taking resources in an inherently unequal negotiation process that forced concessions from one of the world's poorest nations.

The ratification of the treaty clearly shows a democratic deficit in both countries. Signed more than a year ago, there is no justifiable reason why its consideration was so rushed in the parliament of Timor-Leste and short-circuited in Australia. The after-the-fact, truncated inquiry to which we offer this input only highlights both nations' failure to allow for any genuine public consultation.

Greater Sunrise, the subject of the treaty, is twice as close to Timor-Leste as it is to Australia. By agreeing to allow Timor-Leste a 50% (rather than 18%) share of Greater Sunrise's upstream gas and oil revenues, Australia has not been generous. Any self-congratulation on this score by Australian officials will sound hollow to reasonable observers. Under international legal principles and practice, Greater Sunrise's resources rightfully belong to that nation, as should all of Laminaria-Corallina. If any party has been overly generous, it is Timor-Leste – allowing Australia to take half of its national birthright.

It is true that under CMATS, Timor-Leste will receive a greater share of its resources than Australia was willing to accept a few years ago, when the Australian government coerced Timor-Leste into signing the International Unitization Agreement. We appreciate that Australia has finally recognized that its hard-line negotiating stance was a growing international embarrassment. By squelching the more fundamental issue of a maritime boundary for half a century or more, when all the petroleum resources in the Timor Sea are likely to have been exhausted, the agreement attempts to legitimate Australia's past and ongoing theft of Timor-Leste's resources.

By prolonging Australia's refusal to recognize Timor's sovereign right to a boundary line, CMATS continues Australia's occupation of Timor-Leste's maritime territory. The government of Timor-Leste may have temporarily acceded to this occupation, but ETAN joins with many in that country, Australia and around the world in the belief that their struggle for independence remains incomplete until definitive boundaries are accepted by their neighbors.

Finally, we are troubled by the permanent nature of some of CMATS' provisions, especially those which prevent the use of courts or other impartial mechanisms for resolving disputes and which implement Australian control over development options for the Greater Sunrise project.

Two years ago, 17 key members of the U.S. Congress wrote to Prime Minister Howard to "urge Australia to move quickly and seriously to establish a fair, permanent maritime boundary with Timor-Leste, based on the rule of law and respect for the sovereignty of both nations."¹ Australia has clearly failed that test. As Australian security forces strive to restore order and the rule of law in Timor-Leste, an equitable agreement to delimit Timor Sea territory and resources could have built good will on both sides, good will which is increasingly essential as Australian soldiers take lives of Timorese citizens. Instead, Canberra's demonstrated eagerness to get its hands on as much Timor Sea oil money as possible has bred further resentment.

Last month's hasty ratifications in Canberra and Dili pre-empted democratic processes, motivated by concerns that the upcoming elections in either country could result in a climate less eager to satisfy the desires of the oil companies to develop Greater Sunrise immediately and of the Howard government to maximize revenues to Australia. Timor-Leste has no tradition and little experience with democracy and the rule of law, and its people, like those in most new nations, need support and guidance as they learn how to govern themselves in a transparent, legal and just manner. Australia should be ashamed of being such a bad role model.

Signed,

A handwritten signature in black ink, appearing to read "John M. Miller". The signature is fluid and cursive, with the first name "John" and last name "Miller" clearly distinguishable.

John M. Miller
National Coordinator
East Timor and Indonesia *Action* Network/U.S.

¹ March 4, 2005, Congress Urges Expeditious Talks on Permanent Maritime Boundary for East Timor, East Timor Action Network. <http://www.etan.org/news/2005/03aural.htm>