# East Timor plays risky game with Sunrise

## **Drilling down**

By Angela Macdonald-Smith amacdonald-smith@afr.com.au, The Australian Financial Review. 14 June 2013

The Timor Sea has never been famed for offering oil and gas operators smooth sailing over the years.

However East Timor's manoeuvring over the treaty with Australia about royalties from Woodside Petroleum's Sunrise gas venture have escalated sovereign risk in the waters off our northern coast to a worrying new level.

The espionage claims that East Timor hit Australia with in April, related to the negotiations on the treaty, have knocked the Sunrise venture for six. Any hopes the partners had of breaking the stalemate over how to develop the valuable resource have all but disappeared for the time being.

That is troublesome enough, but the issue is spilling over to the other ventures in the Joint Petroleum Development Area (JPDA) - the waters jointly run by East Timor and Australia - including ConocoPhillips' Bayu-Undan gas venture and Eni's \$US1 billion Kitan oil project.

Along with the tax dispute over Bayu-Undan that has been simmering away since last year and a lack of clarity in some legal and regulatory processes in East Timor, some operators are signalling their confidence in investing in the nation's waters has been badly damaged.

### **Invoking arbitration**

Various theories abound on what is behind East Timor's decision in April to use years-old allegations of espionage to invoke arbitration over the Sunrise treaty, formally called Certain Maritime Arrangements in the Timor Sea (CMATS).

The allegations date back to when the treaty was being negotiated by Australian and East Timorese government officials in 2004.

On the face of it, should the treaty be invalidated the split in revenues between Australia and East Timor would revert from the 50:50 enshrined in the accord to 82 per cent in favour of Australia, given most of the Sunrise resource lies in waters formally - if incorrectly in the eyes of the Timorese - assigned to Australia.

But the move is being widely perceived as an initial step in a bid by the Timorese to secure a bigger chunk of revenues from Sunrise.

That may involve simply a fatter share of the pie or a stake in the project for East Timor's new national oil company Timor Gap. Or, the Timorese may want to hardwire into a new agreement a requirement that secures its long-held aim, that Sunrise be developed through an onshore plant on its soil, rather than through floating liquefied natural gas as favoured by Woodside and its Sunrise partners: Shell, ConocoPhillips and Osaka Gas.

As of mid-week, the Australian government was still considering its response to the notice of arbitration.

However, some move is imminent, given Australia has only about 10 days remaining of the 60 it had as of April 23 to appoint an arbitrator, or seek to take a different course of action.

Some Timor Sea operators are worried the dispute has put the wider Timor Sea treaty framing oil development in the region in doubt.

Timor's natural resources minister Alfredo Pires says Timor does not want to cancel CMATS as it wants to avoid the risk of terminating the Timor Sea Treaty. Rather, it wants the accord "invalidated" and renegotiated, which Mr Pires says would provide certainty for foreign investors.

## Some in industry are concerned

It's no surprise that view is not shared in the industry where some fear they may be forced to consider write-downs of assets in the JPDA.

Others, however, seem unfazed.

Italy's Eni, a partner in Bayu-Undan as well as in the Kitan oil project that started up in 2011, is still planning to drill five wells in the JPDA over the next 18 months, presumably involving many tens of millions of dollars.

Its confidence is backed by the importance that revenues from the oil and gas ventures in the JPDA have for the East Timorese economy, given the lack of exploration success so far in the three wells drilled so far by India's Reliance Industries and Eni in its own exclusive waters.

But the Sunrise venture is shaken and is for now doing little more than continuing with its social investment program in East Timor.

Despite more than a decade with little progress on Sunrise, the venture is for the moment holding together, drawn by the potential of the liquids-rich resource of 5.13 trillion cubic feet of gas seen as ideal for floating LNG.

In the meantime, East Timor continues to act as if onshore development of Sunrise is a certainty. In a round of speaking events last week in Singapore and the Philippines, Prime Minister Xanana Gusmao regularly highlighted plans for LNG production as part of broader ambitions for industrial development on the south coast.

Both governments say the taxation dispute over Bayu-Undan is unrelated to the arbitration process. Conoco, as the venture operator, is contesting \$US227 million in taxes, penalties and interest it believes have been erroneously levied and has warned the issue has harmed its view on the investment climate in East Timor.

In any case the feeling among some is that all the strands are connected and part of a broader strategy by the Timorese around Sunrise.

But it looks to be a murky and drawn-out play. Investors looking for action in LNG to the north should look instead to Papua New Guinea, which has its own hurdles but has leapt ahead in terms of sovereign risk.

## Letter to the Editor, Australian Financial Review, June 16, 2013

#### East Timor's legal framework still wanting

The present rulers of East Timor seem busier building their personal frequent flyer points than they do building their nation, as they tour the world to spruik their case.

A decade ago, then Prime Minister Mari Alkatiri visited seeking by proclamation to have energy companies site their refineries and other plants onshore in East Timor, rather than offshore on floating platforms. Sadly, since then there is little sign of progress in their recognition of the realities of this business, including sovereign risk.

Their latest campaign described by Angela Macdonald-Smith (East Timor plays risky game with Sunrise, AFR, June 14) aims to bluff Australia into various concessions. Onshore processing also seems to be a key point of this campaign, to allow them to avoid losing face after all their proclamations around the world.

However, one kind of potential progress that is within their own control (with some foreign aid) is to set up a viable legal infrastructure in which foreign investors might become confident. There needs to be business laws and regulations; courts and a judiciary; and recruitment and training to support these. My attempts to obtain some information on aims in this area, and what steps have been taken or are planned, have elicited no answers.

Perhaps a friendly Australian think-tank might research this, to encourage East Timors rulers toward such progress? It's in all our interests that they succeed.

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