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Proceedings Initiated by Timor-Leste Against Australia Commence at ICJ

On 20th January proceedings initiated by Timor-Leste against Australia will commence at the International Court of Justice (ICJ) at The Hague. The ICJ is the principal judicial organ of the United Nations, established to adjudicate on disputes between States.

In Monday's court proceedings Timor-Leste will seek an Order from the ICJ concerning documents belonging to Timor-Leste and seized from the office of one of Timor-Leste's legal advisers. The documents were seized by order of the Attorney General of Australia and relate to a range of confidential and highly sensitive matters, including among other things an arbitration that Timor-Leste had recently initiated against Australia. The seizure was executed by the Australian Secret Intelligence Organization (ASIO), shortly before the first meeting of the arbitration tribunal established to hear that case.

The arbitration was initiated by Timor-Leste against Australia under article 23 of the 2002 Timor Sea Treaty and seeks a declaration that the Treaty remains in force in its original form, notwithstanding amendments purportedly made by a later treaty. Timor-Leste contends that the later Treaty is invalid and ineffective because Australia's secretly and unlawfully spied on Timor-Leste, bugging its government offices and listening in to highly confidential discussions during the course of the negotiations on the Treaty. Such conduct is a violation of international law. The treaties provide for the sharing of offshore oil in the Timor Sea between Timor-Leste and Australia, and are widely considered to have been drafted to the advantage of Australia and the disadvantage of Timor-Leste.

The documents referred to in the ICJ matter were held in the Canberra office of one of Timor-Leste's lawyers, and were seized without warning. The property of Timor-Leste, the documents contain communications between its lawyers covering legal strategy, analysis and opinions relating both to Timor-Leste's case in the arbitration and to broader legal and strategic issues. The home of Timor-Leste's key witness in the arbitration was also raided at the same time and his passport was seized.

"In addition to the return of our property, Timor-Leste is seeking the protection of all its communications that attract legal privilege, and an assurance that will provide its lawyers as well as the Government with comfort that their legal documents, dealings and property are secure in accordance with their entitlement under



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international law,” said Minister of State Agio Pereira.

Timor-Leste’s international law firm DLA Piper has instructed highly regarded barristers and international law specialists Sir Michael Wood and Sir Elihu Lauterpacht.

In Monday's proceedings, which will last for three days, Timor-Leste seeks an interim Order that would require Australia to hand the documents over to the Court, pending a final decision on Timor-Leste's demand for their return. The final decision could take a year or more. These proceedings will be publicly available via live web streaming at webtv.un.org. **ENDS**



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