

Australia to 'vigorously defend' Timor-Leste pipeline claims

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The Australian government will "vigorously defend" arbitration proceedings initiated by Timor-Leste in relation to their treaty, which determines jurisdiction over oil and gas resources in the Timor Sea.

In a statement released Friday, Australian Attorney-General George Brandis and Minister for Foreign Affairs Julie Bishop expressed disappointment that Timor-Leste had initiated arbitration against Australia, disputing its right to tax the gas pipeline from the ConocoPhillips-operated Bayu-Undan field, located in the two countries' Joint Petroleum Development Area.

The pipeline transports gas from the field to the northern Australian city of Darwin, where it is fed into a 3.7 million mt/year LNG facility.

"Australia and Timor-Leste had been pursuing amicable consultations in an attempt to resolve this dispute through dialogue rather than legal action." Brandis and Bishop said. "This remains Australia's preferred approach.'

According to the ministers, successive Australian and Timor-Leste governments have acted on the basis that Australia has exclusive jurisdiction over the pipeline, including for taxation purposes, consistent with the 2002 Timor Sea Treaty.

They cited Article 8(b) of the Timor Sea Treaty as stating: "A pipeline landing in East Timor shall be under the jurisdiction of East Timor. A pipeline landing in Australia shall be under the jurisdiction of Australia."

Under an agreement between both sides, Timor-Leste has received A\$8 million from Australia every year since the pipeline came into operation in 2006 in lieu of Timor-Leste receiving tax revenue from the pipeline, the Australian ministers added.

"Despite this, in 2012 Timor-Leste started imposing retrospective taxes on companies that use the pipeline," they said.

"Timor-Leste's new position on this arrangement is not only inconsistent with our agreement, but also undermines established arrangements for operators in the Timor Sea. Australia will vigorously defend this and other arbitration proceedings commenced by Timor-Leste.'

Timor-Leste gave notice to Australia last week that it was initiating new arbitration proceedings under the Timor Sea Treaty.

In its latest action, Dili is challenging Australia's assertion that it has exclusive rights over the entire length of the Bayu-Undan pipeline.

The maritime boundary between Timor-Leste and Australia has been the subject of a long-running dispute, dating back to a 1972 agreement between Indonesia and Australia that placed the line much closer to Timor, rather than on the median point between the two coasts.

The dispute has held up the development of the Woodside Petroleum-operated Sunrise gas field, which is being eyed for an LNG project. Jurisdiction over the disputed area is defined by the Timor Sea Treaty and the Treaty on Certain Maritime Arrangements in the Timor Sea, signed in 2006.

The treaties defined the Joint Petroleum Development Area, which covers part of Sunrise and all of Bayu-Undan, but put off the finalization of permanent maritime boundaries for first 30, and then 50, years.

Timor-Leste first instituted proceedings against Australia in the Permanent Court of Arbitration in April 2014, claiming that the CMATS treaty was invalid because its larger neighbor had engaged in espionage during its negotiations.

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