



TIMOR SEA TREATY
BETWEEN
THE GOVERNMENT OF EAST TIMOR
AND
THE GOVERNMENT OF AUSTRALIA

(Dili, 20 May 2002)

TIMOR SEA TREATY

THE GOVERNMENT OF AUSTRALIA
and
THE GOVERNMENT OF EAST TIMOR

CONSCIOUS of the importance of promoting East Timor's economic development;

AWARE of the need to maintain security of investment for existing and planned petroleum activities in an area of seabed between Australia and East Timor;

RECOGNISING the benefits that will flow to both Australia and East Timor by providing a continuing basis for petroleum activities in an area of seabed between Australia and East Timor to proceed as planned;

EMPHASISING the importance of developing petroleum resources in a way that minimizes damage to the natural environment, that is economically sustainable, promotes further investment and contributes to the long-term development of Australia and East Timor;

CONVINCED that the development of the resources in accordance with this Treaty will provide a firm foundation for continuing and strengthening the friendly relations between Australia and East Timor;

TAKING INTO ACCOUNT the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982, which provides in Article 83 that the delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law in order to achieve an equitable solution;

TAKING FURTHER INTO ACCOUNT, in the absence of delimitation, the further obligation for States to make every effort, in a spirit of understanding and co-operation, to enter into provisional arrangements of a practical nature which do not prejudice a final determination of the seabed delimitation;

NOTING the desirability of Australia and East Timor entering into a Treaty providing for the continued development of the petroleum resources in an area of seabed between Australia and East Timor;

HAVE AGREED as follows:

Article 1: Definitions

For the purposes of this Treaty:

- (a) "Treaty" means this Treaty, including Annexes A-G and any Annexes subsequently agreed between Australia and East Timor.
- (b) "contractor" means a corporation or corporations which enter into a contract with the Designated Authority and which is registered as a contractor under the Petroleum Mining Code".
- (c) "criminal law" means any law in force in Australia and East Timor, whether substantive or procedural, that makes provision for or in relation to offences or for or in relation to the investigation or prosecution of offences or the punishment of offenders, including the carrying out of a penalty imposed by a court. For this purpose, "investigation" includes entry to an installation or structure in the JPDA, the exercise of powers of search and questioning and the apprehension of a suspected offender.
- (d) "Designated Authority" means the Designated Authority established in Article 6 of this Treaty.
- (e) "fiscal scheme" means a royalty, a Production Sharing Contract, or other scheme for determining Australia's and East Timor's share of petroleum or revenue from petroleum activities and does not include taxes referred to in Article 5 (b) of this Treaty.
- (f) "initially processed" means processing of petroleum to a point where it is ready for off-take from the production facility and may include such processes as the removal of water, volatiles and other impurities.
- (g) "Joint Commission" means the Australia-East Timor Joint Commission established in Article 6 of this Treaty.
- (h) "JPDA" means the Joint Petroleum Development Area established in Article 3 of this Treaty.
- (i) "Ministerial Council" means the Australia-East Timor Ministerial Council established in Article 6 of this Treaty.
- (j) "petroleum" means:
- i. any naturally occurring hydrocarbon, whether in a gaseous, liquid, or solid state;
 - ii. any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
 - iii. any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, as well as other substances produced in association with such hydrocarbons;
- and includes any petroleum as defined by sub-paragraphs (i), (ii) or (iii) that has been returned to a natural reservoir.
- (k) "petroleum activities" means all activities undertaken to produce petroleum, authorised or contemplated under a contract, permit or licence, and includes exploration, development, initial

Article 23

Transitional provisions

1. Business losses incurred in the JPDA by a person in a year previous to the year in which this Taxation Code enters into force and business losses apportionable in accordance with paragraph 2 to that part of the year prior to the date that this Taxation Code enters into domestic law effect, may, for the purposes of the taxation law of a Contracting State and in accordance with the provisions of that law, be carried forward for deduction against income which is subject to the provisions of this Taxation Code, in accordance with the provisions of this Taxation Code.
2. In the year in which this Taxation Code enters into force the Contracting States shall only apply the framework percentage or reduction percentage to that proportion of income, losses and other items addressed by this Taxation Code which corresponds to that portion of the period from the date of entry into domestic law effect to the end of the year.

Article 24

Review mechanism

At the request of either of the Contracting States, the Contracting States shall review the terms and operations of this Taxation Code with a view to amending the Taxation Code, if considered necessary.

Article 25

Entry into force

This Taxation Code shall enter into force at the same time as the Treaty to which it forms part.