

TIMOR SEA TREATY

Submission No: ...9.....

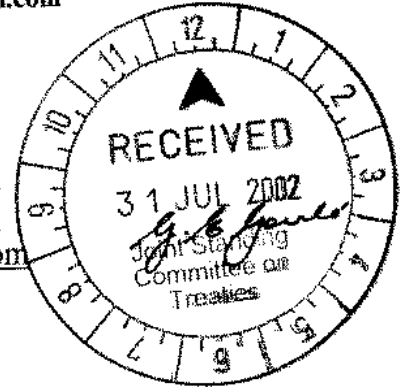
# FORUM NACIONAL ONG TIMOR LOROSA'E THE EAST TIMOR NATIONAL NGO FORUM



Caicoli Street, Dili, East Timor. Tel 322 772. Email: [etngocentre@hotmail.com](mailto:etngocentre@hotmail.com)

To:  
Secretary  
Joint Standing Committee on Treaties  
Australian Parliament  
[jsct@aph.gov.au](mailto:jsct@aph.gov.au)

From:  
Director  
East Timor NGO Forum  
[ratumean@hotmail.com](mailto:ratumean@hotmail.com)  
[etngocentre@hotmail.com](mailto:etngocentre@hotmail.com)  
[filopau@yahoo.com](mailto:filopau@yahoo.com)



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## TIMOR SEA TREATY Submission by East Timor NGO Forum

Dear Sir

Thankyou for the opportunity to submit this brief submission to your committee. We would welcome the opportunity to discuss this in person with your committee, and we hope that it may be possible for your committee to have hearings in Dili so we and others can do that.

**We feel that the Timor Sea Treaty as signed on May 20<sup>th</sup> this year is an unequal and unfair treaty.** It was the result of pressure negotiations between an experienced, rich and large country, and a small, poor, inexperienced not yet formed independent country, learning and negotiating under UN auspices. As a result the treaty favours Australia in important areas.

East Timor leaders have signalled since 1998 that they were prepared to work together with Australia and the existing international oil companies involved in the Timor Sea to facilitate the orderly development of the oil and gas resources to mutual benefit.

However, as a result of the destruction of most of the infrastructure of East Timor in September 1999 before Interfet arrived and worked effectively, we are dependent on international support for a few years, until monies from oil and gas development start to flow to us.

This has weakened our negotiating position, as there has been an implied or direct threat that unless we agreed to the Timor Sea Treaty as prepared, then short term support might be restricted. [UN chief negotiator Peter Galbraith said that he and Mari Alkatiri were 'threatened' by Alexander Downer in April 2001 during the negotiations]. We could see that our leaders were worried about international donor funding, and the continued support for international forces along our boundary.

Further, it was not really possible to negotiate a fair treaty until we as a new country had the chance to negotiate or to have arbitrated our EEZ and Maritime Boundaries. In this respect, Australia has put further pressure on us, and shown bad faith, by on 19<sup>th</sup> March this year withdrawing from the ICJ jurisdiction of UNCLOS as it relates to the maritime boundaries of Indonesia, East Timor and Papua New Guinea.

After the May 20<sup>th</sup> signing, Alexander Downer said that East Timor could talk all it likes but Australia will not change the maritime boundaries as implied in that Treaty. [We understand that the Australian government is concerned about 'precedent' in relation to its current boundaries with Indonesia. That is not our problem!] New prime minister Mari Alkatiri expressed great concern about Mr Downer's comment.

International legal and maritime boundaries experts have drawn a map which shows that the lateral boundaries should be far wider than those drawn under the 1989 Timor Gap negotiations with Indonesia. In fact they enclose Laminaria/ Corallina and Buffalo Oil fields to the west, and all of Greater Sunrise gas fields to the east.

#### **Specific issues relating to the current Treaty:**

1. **Boundaries.** We have no defined EEZ and Maritime Boundaries, hence the ownership of resources and revenues cannot possibly be determined.
2. **Bayu Undan.** This project is being developed right now, with extraction of liquids the first phase, and gas is to be pumped back into the reservoirs until later. Negotiations accepted that 90% of ownership and government revenues will flow to East Timor. This can be interpreted as implicit acceptance that the north-south boundary should be at the median point between the 2 neighbours.
3. **Laminaria/Corallina, Buffalo and close by other small oil fields.** These oil field are producing right now, with government revenues of around US\$300 million per year in the last 2 years flowing 100% to Australia. Yet this is in waters and undersea boundaries claimed by East Timor. The revenues are more than enough to fund the early years of government of East Timor.

We assert that these royalties should belong to East Timor beginning approximately from the date of the independence ballot, that is 30<sup>th</sup> August 1999. Australia should pay back the royalties so far received, and the future royalties should go to East Timor. At the least, all past and current Royalties should be held in trust, but it would be fairer, and remove pressures, for enough of these royalties to be paid now to East Timor to enable independent government.

#### **4. Greater Sunrise.**

The present Treaty, in particular Annexe E, determines that 90% of only 20% of Greater Sunrise is deemed to belong to East Timor. This is based on existing JPDA boundaries which should have **NO MEANING** to the present situation between independent nations East Timor and Australia. This is the greatest unfairness in money terms. It is not outrageous to suggest that this will result in the theft of 80% of East Timor's gas reserves from this area.

**Sir, and members of the Treaties Committee:**

Point 4 above is clear evidence for all to see as to why the Timor Sea Treaty should NOT be ratified by either Parliament, nor supported by your committee. It is a gross violation of our economic and thus social rights that one of the wealthiest nations in the world should so blatantly steal from one of the poorest.

How is it possible to have a fair treaty when Australia insisted it should be based on an existing treaty it signed with our invader and illegal occupier Indonesia? We submit the treaty should have been formed as a fresh new document - Shorter, Simpler, and Fairer. At that time 1989 Australia de jure recognised our illegal occupation by the invader. This was bad faith to us for over 20 years. The Australian people and Australian Parliament will support us, we believe, when they understand the realities of the present situation. We know the Australian people cared more for us than the governments since 1975. East Timor **MUST** have an **EEZ** and **Maritime Boundaries**, and these should be determined under current **UNCLOS** procedures.

**In reality, and to be practical:**

The median boundaries are the ones Australia is worried about in relation to setting precedents with Indonesia. The lateral or east-west boundaries are of great importance to East Timor, and perhaps should be the focus of immediate attention.

So, Bayu Undan can go ahead under present arrangements. The revenues from the oil fields to the west should be redirected to East Timor from late 1999 or at least held in trust, but Greater Sunrise must not be developed under the present treaty arrangements.

Thankyou for the opportunity to present this submission. We are the coordinating body for about 80 East Timorese NGO's and have been part of a civic society group discussing these issues. Again, we would appreciate the chance to meet face to face.

Yours faithfully

**Cecilio Caminha Freitas**  
Executive Director Forum NGO  
Email: ratumean@hotmail.com  
Ph: 0417 835 424