

Times Sea Weekly  
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The Uniting Church in Australia  
Synod of Victoria and Tasmania  
Justice and International Mission Unit

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The Secretary  
Joint Standing Committee on Treaties  
Suite R1-116  
Parliament House  
Canberra, ACT, 2600

BY: G. E. Spindel

Dear Secretary,

I am writing on behalf of the Justice and International Mission Unit, Synod of Victoria and Tasmania, to express our opposition to:

- the *Australian Declaration under Paragraph 2 of Article 36 of the Statute of the International Court of Justice 1945*; and
- the *Australian Declaration under Article 298(1) of the United Nations Convention on the Law of the Sea 1982*.

The Unit urges the Joint Standing Committee on Treaties to reject Australia's Declaration under paragraph 2 of Article 36 of the *Statute of the International Court of Justice 1945* and Australia's Declaration under Article 298(1) of the *United Nations Convention on the Law of the Sea 1982*.

The Unit is deeply concerned that Australia's Declarations were motivated to stop the International Court of Justice from considering the maritime boundary between Australia and East Timor with implications for the exploitation of the oil and natural gas fields within the Timor Sea. Further, the Unit is concerned that the Australian Declaration under Article 298(1) of the *UN Convention on the Law of the Sea 1982* is for the purposes of preventing East Timor from seeking dispute resolution regarding the maritime boundary through the *UN Convention on the Law of the Sea* compulsory dispute resolution mechanisms. The Unit is concerned that the Australian Government recognises it is able to negotiate from a position of power with regard to the maritime boundary and exploitation of the oil and gas fields with East Timor. Appeal to the International Court of Justice or the compulsory dispute resolution mechanisms of the *UN Convention on the Law of the Sea* may redress this power imbalance in the negotiations resulting in a more just and fair outcome for East Timor at Australia's expense.

The Unit notes that East Timor's Chief Minister, Mari Alkatiri, is quoted in the media as having stated that Australia's Declarations were an "unfriendly act".

If the principles of the *UN Convention on the Law of the Sea* were to apply then East Timor would get all the revenue from the oil and natural gas deposits contained within its boundaries. Further, the Convention stated that for countries with less than 400 nautical miles of sea between them, the international boundary should be at the mid-point.

It is reported by East Timorese NGO, La'o Hamutuk, that in 2001 in talks on the Timor Sea, Australia refused to discuss maritime boundaries between the two countries, agreeing only to discussion of how production revenues would be shared.

The *Timor Sea Treaty* refers to the Treaty "taking into account the United Nations Convention on the Law of the Sea" and yet the Australian Declaration under Article 298(1) would appear to contradict this part of the *Timor Sea Treaty*.

The Unit is deeply concerned that Australia's Declarations under paragraph 2 of Article 36 of the *Statute of the International Court of Justice 1945* and Article 298(1) of the *United Nations Convention on the Law of the Sea 1982* will be perceived negatively in the region. Other countries may see this as the act of a regional power pressuring a weaker country and not allowing for any recourse to an independent body.

The Uniting Church in Australia has taken an active and on-going commitment to the well-being and human rights of the people of East Timor. The National Uniting Church in Australia has staff committed to working on issues relating to East Timor and Indonesia in the Unity and International Mission agency. In 1994 the National Assembly of Uniting Church representatives from throughout Australia called on the Australian Government "to recognise the right of self determination of the East Timorese people". They further committed the Uniting Church to "encourage the leaders of the Catholic and Protestant Churches in East Timor in their desire to work for social justice, and in their efforts to achieve meaningful participation by East Timorese indigenous people in decisions that affect their future."

Further, the Synod of Victoria has maintained an active involvement in the Jubilee Australia Debt Relief Campaign. One concern that this campaign has repeatedly raised with the Australian Government is that East Timor is not placed into a position where it is forced to choose between being caught in unsustainable debt burdens or the well-being and basic social and economic rights of its people. This involves ensuring that East Timor is able to generate sufficient income for development and to provide for the basic social and economic rights of its people. We note that in order to avoid getting into a situation of unsustainable debt, the Government of East Timor has adopted a 'no loans' policy. East Timor's government budget for the coming year is reported to be only US\$77 million. East Timorese non-governmental organisations (NGOs) have stated that revenues from oil and natural gas currently represent East Timor's greatest hope for meeting the East Timorese people's basic needs including economic development, health and education. In the words of La'o Hamutuk, The East Timor Institute for Reconstruction Monitoring and Analysis, regarding oil and natural gas revenues from the Timor Sea:

*"While the loss for Australia would certainly be significant, for East Timor the gain could very well prove to be the difference between remaining a poverty-stricken country and one that is able to satisfy the basic socio-economic needs of all its citizens."*

East Timor has desperate development needs. East Timorese non-governmental organisations report that when Indonesian forces withdrew from East Timor in 1999, they destroyed 75% of the country's infrastructure. East Timor has only a 40% literacy rate, a GNP per capita of US\$340, life expectancy of 48 years and an infant mortality rate of 135 per 1,000 live births. The maternal mortality rate is reported to be twice that of other countries in Southeast Asia and the Western Pacific.

The Unit notes that Australia has reduced its overseas development assistance to East Timor by 12.7% in the 2002-2003 budget, to a mere \$36.0 million. The Unit notes that under the *Timor Sea Treaty* East Timor would get 90% of the revenue from the Bayu Undan oil and gas field, expected to come to US\$3 billion. However, East Timor would only get 18% of the revenue from the Greater Sunrise field with reserves estimated at \$30 billion over the life of the project from 2009 to 2050. East Timor's legal experts are reported to have advised that if international principles applied East Timor would get most if not all of the Greater Sunrise field. The Unit further notes that East Timor believes that it is entitled to the Laminaria oil and gas field, from which Australia currently gets all the revenue.

If Australia is genuine about support to East Timor, it will allow East Timor access to international dispute mechanisms in resolving its maritime border with Australia.

Yours sincerely,

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