

HANDS OFF MY PETROLEUM!

It's a colossal mismatch. Canberra and Dili are claiming ownership of the same oil and gas resources in the Timor Sea—and tempers are rising

By TOM DUSEVIC DILI

LIKE RECENT GRIEF, A BURDENSOME moisture has dropped on the tiny capital at the tail end of the country's wet season. Taxis chug unprofitably around the town's dusty streets seeking passengers. As frequent toots and the precise hand signals of police officers slice the heavy air, lassitude is supreme. Only bony hounds present a menace to the few souls out in the mid-afternoon heat. In a chilly conference room at the Hotel Timor, a bespectacled delegate is setting out Australia's position during official talks that are meant to build a permanent legal fence in the sea between his abundant nation and its impoverished near neighbor. East Timor's lead negotiator, Peter Galbraith, is unmoved by the Australian's argument, but now he's roused by a Canberra official's refrain of "I wish I had a dime for every time I've heard that one" in response to Dili's case. Galbraith asks a woman on his team to hand a 25¢ coin to the opposing side in a dispute that is worth perhaps 50 billion times that amount. Pulses race, heads turn, eyes roll among the negotiators; each side digs its trench a little deeper. This is petro-diplomacy, Timor Sea style. "It's like dealing with the Krajina Serbs [in Croatia]," says Galbraith, a former U.S. Ambassador in Zagreb, describing the Australians, who on the second day of talks declared that Dili's top priority—lateral boundaries—was off the table.

If this was war, the conflict would be called asymmetric. A small, fast-moving mercenary force is launching rocket-propelled grenades in all directions; its larger,

cautious opponent knows it can call in air strikes at any time. The difference between the two countries' firepower and tactics could hardly be greater. East Timor (pop. 800,000), the half-island which celebrated independence on May 20, 2002, is one of the poorest countries in Southeast Asia; Australia (pop. 20 million) is the richest nation in the region. East Timor is pressing for a maritime boundary in the Timor Sea that is equidistant between the countries. Provisional arrangements over a sea zone known as the Joint Petroleum Development Area—90% of whose taxes and royalties are East Timor's—will bring it about \$4 billion. Over the coming decades, an extra \$8 billion could go to Dili if it is successful in capturing the oil and gas fields to the east and west of the JPDA. But first it must persuade Australia, and then the Indonesians (who occupied the territory between 1975 and 1999), with whom sea-boundary talks are imminent. "The petroleum resources are utterly essential to East Timor," President Xanana Gusmão told TIME on the eve of the April 19-22 talks. "We desperately need funds to fix roads, to build up our schools and health system. Our international donors say 'But you have all this oil and gas. So don't ask us for more money.'"

The former Portuguese colony has assembled a multinational team to prosecute its case—a kind of Dili All-Stars, including forthright Ambassador Galbraith, Portuguese naval officer and legal scholar Nuno Antunes, and experts from East Timor, Australia, Norway, Britain and Canada. According to maritime law, countries are entitled to claim a 200-nautical-mile (370 km) exclusive zone from their coast. "When countries

have overlapping claims," says Antunes, "the best settlement is to be found in international law." Citing 15 international arbitrated decisions and 60 examples of state practice, Antunes says equidistance is the overwhelming principle for "delimiting" maritime boundaries in circumstances facing East Timor and Australia. But that would put all the petroleum reserves on Timor's side. Australia argues that the geomorphology of the Timor Sea is unique. "We have successfully established that the natural promulgation of the continent extends to the Timor Trough," says an Australian delegate, pointing to a sea-bed diagram that shows a ditch 550 nautical miles long and up to 3,000 m deep which effectively puts the two countries on different continental shelves. "The Australian position has been presented as non-rebuttable," says Antunes. "That's not justified. Today's case law suggests the Timor Trough would be given no relevance whatsoever."

While Canberra has been reticent, speaking only through Foreign Minister Alexander Downer, the East Timorese have waged a propaganda blitz. "Their strategy is to shame us into more concessions," says Downer. Dili is convinced that telling the world about



this new struggle for justice can only help its case—even if it risks alienating its closest international friend. “We slowly came to realize the bad faith that Australia was showing in negotiations over the Timor Sea,” says Gusmão about Australia’s withdrawal from the International Court of Justice on maritime boundary disputes in March 2002. In private meetings, he says, “Australia did not want to listen to our arguments. ‘Be realistic, it’s only a dream,’ they said about our claims. [Australia] wanted to preserve what they had secured from Indonesia when we were occupied. As if we were blind! Now is the time to speak out about this issue.”

Last week President Gusmão told Portugal’s *Público* newspaper: “This is not right. The country which steals from us then organizes conferences regarding transparency [and] anti-corruption.” Downer told *TIME* that Australia will take the heat: “Australia’s immense generosity in recent times should not be forgotten . . . We agreed to give East Timor 90% [of the JPDA] . . . and now we are told that we are thieves and cheats.” Downer says he would prefer the talks to remain confidential and cordial. “When you enter into negotiations and you abuse and denigrate the other side—well, they obviously don’t regard the relationship with Australia as highly as I thought. [But] I would think twice about this tactic. It’s never worked with me. A former South Australian Premier, Sir Thomas Playford, used to say, ‘You attract more flies with honey than vinegar.’” East Timor’s Prime Minister, Mari Alkatiri, says the relationship is multifaceted: “The Timor Sea is a separate issue. The general spirit between us is good.” Australia is a major donor to the country. During the past four years it has spent \$170 million on humanitarian aid, poverty reduction, health and rural development.

The passion and certainty of the protagonists aside, the seabed bound-

ILLUSTRATION FOR TIME BY JIM TISNEANOS

ary issue is devilishly complex. Changes in international law, sovereignty and geopolitics have left a murky situation. That Australia is rich and East Timor is poor counts for nothing. Yet the new nation's recent tragic history—neglected Portuguese colony and brutalized invaded territory—gives the talks a profound moral dimension. John Howard's government spent considerable political capital and diplomatic effort on Timorese independence; it sent 5,700 troops and led the U.N.'s INTERFET peace-keeping force. "Having helped to liberate East Timor, Australia is obliged to see it succeed," says a western diplomat in Dili. Australian Greens Senator Bob Brown went to Timor during the talks to speak with non-government organizations. "I'm personally appalled by the injustice of Australia wielding the big stick to get East Timor's resources," he says. "Even though we are in the castle and they are in the shanty, we still won't go to arbitration. For Australians, that's shorthand for the government doing the wrong thing." "We all want to see East Timor prosper," says an Australian diplomat involved in the country's march to freedom.

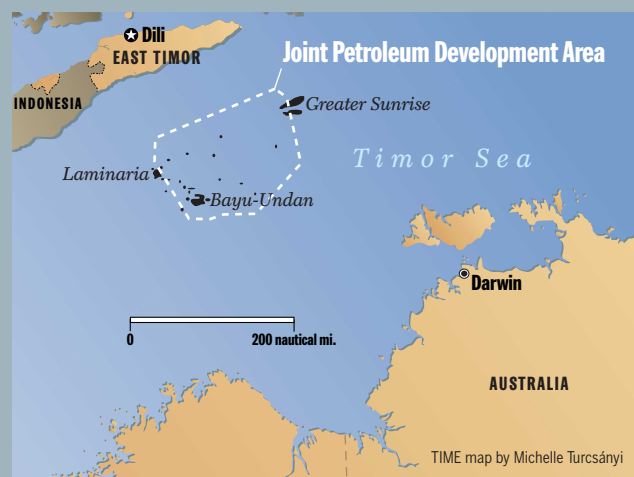
"But adjusting maritime boundaries is not the way to deliver redistributive justice." Nor is it a way to make Australia's other negotiations—particularly with Indonesia—any easier.

FEW LIVING TIMORESE WOULD KNOW THE country's rugged cordillera better than Manuel Mendonça, 38. Known as *kokorek* (young fowl), he was a teenage member of the clandestine anti-Indonesian resistance movement and then a sub-district commander of the Falintil guerillas, maintaining supply lines and mobilizing support in the mountains outside the capital. The wiry father of six is recuperating at his half-built concrete-block home on Dili's fringe. A decade of camping out in the bush, not to mention torture and imprisonment, has prematurely aged Mendonça, leaving him with tropical diseases, a damaged spine, and bones that have not properly healed after they were broken. Though he now works in the Prime Minister's office as a communications officer, Mendonça can wait half a day for an X ray—then be sent home without even being seen. The country has a heart-breaking child mortality rate; av-

erage life expectancy is 57 years. "There is so much this country still needs in basic services," he says. "But I am O.K."

For the past two years, Mendonça has trekked through remote areas in a four-wheel-drive vehicle, explaining to skeptical village chiefs the government's progress in the Timor Sea negotiations and its plans to meet the basic needs of citizens and save half the expected revenues in a fund for future generations—like the thousand young Catholics gathered at a conference in Ermera, a coffee-growing area some 50 km from Dili. It's taken Prime Minister Alkatiri and his escort almost three hours to make the hazardous road journey here, but at the end of his pep talk, he takes 90 minutes of questions. The main issue seems to be the security situation over the coming months, as U.N. forces are wound down. Alkatiri is also asked to explain himself over corruption allegations brought by U.S. company Oceanic Explorations. With a stagnant economy, students want to be told there will be jobs for them when they graduate. "You have to be creative," the P.M. urges. "Design your own jobs." Later, Alkatiri tells TIME his country

INSIDE THE MARITIME BOUNDARY TALKS



There is no official record of the April 19-22 talks in Dili, but participants have explained the arguments to TIME. Here's a summary of what was said at the secretive meeting.

EAST TIMOR: International law says that when two states are less than 400 nautical miles (750 km) apart, the maritime boundary should be the line of equidistance.

AUSTRALIA: That's wrong, because this area is unique. The 1958 U.N. Convention on the Continental Shelf is the

guiding principle. The sea bed in the Timor Sea has a huge steep cleft called the Timor Trough—550 nautical miles long, 40 n. mi. wide and as deep as 3,000 m. The two countries sit on different shelves.

EAST TIMOR: That's a poor argument. If you had not pulled out of the International Court of Justice for disputes of this kind, we could have legal arbitration that would determine the validity of the two claims.

AUSTRALIA: We prefer to settle our maritime boundaries through negotiation.

EAST TIMOR: So why don't you speed up these talks so that we meet monthly instead of twice a year?

AUSTRALIA: Because we currently have a number of negotiations with other countries on a range of issues. Our administrative system requires a great deal of consultation between the government and bureaucracy. Besides, maritime boundaries are permanent, and there's no point in rushing these talks.

EAST TIMOR: If this issue takes many years to resolve, there will be no oil and gas resources left for us in the disputed areas. Why don't you stop exploiting those fields? And please stop issuing new exploration licenses.

AUSTRALIA: But they are Australia's resources. We have been deriving a benefit from the area for many years.

EAST TIMOR: But if you want to negotiate in good faith, you have to show restraint. There is a real possibility that when the boundaries are eventually settled, the resources will be gone. If you do not hold the revenue in trust, you are denying us the potential enjoyment of our rights when our claim is upheld.

AUSTRALIA: If we stop exploitation and exploration, we would be seen as recognizing the validity of your claim. And, of course, we don't.

EAST TIMOR: You were only able to exploit those resources in the Timor Gap because you negotiated a good deal with Indonesia while it was illegally occupying our country. It was a political solution, not a legal one. As soon as we achieved independence, all bets were off.

AUSTRALIA: That area in the Timor Gap is now the Joint Petroleum Development Area. The Timor Sea Treaty gives you 90% of the taxes and royalties and that's very generous.

EAST TIMOR: You know that is only a temporary agreement and that we've always claimed petroleum fields that are much closer to East Timor than Australia. A permanent boundary along the median line would place the JPDA entirely on our side. As well, we are fully entitled to the Laminaria and Greater Sunrise areas under international law.

AUSTRALIA: Oh, come on!

EAST TIMOR: No, you come on.

WITH ONE VOICE: Dili residents held three protest rallies near the Australian Embassy

will not follow the example of resource-rich neighbors that have squandered their wealth or been strangled by corruption: "Without a strong institutional footing, high levels of public investment would be dangerous." Idleness will not be tolerated either. "We need to push the people to work for their livelihood, not to depend on social spending."

Or aid. While the country's annual budget of \$80 million (\$100 per person) relies heavily on donors, that's slowly changing. In February, operator ConocoPhillips reported a regular flow of "wet gas" from the JPDA's Bayu-Undan field. For the next 20 years, the offshore project is expected to provide East Timor with \$100 million a year. "That sounds great," says a former petroleum executive. "But during the second phase, 'dry gas' will be piped to Darwin. Downstream is where the major economic benefits exist, and Australia has secured that." While Dili has engaged technical experts to see whether a pipeline could be laid to catch some of that onshore activity, "the clock is ticking," says the oilman. Of more immediate concern to East Timor, however, is that Australia is issuing new exploration licenses in the disputed area and receiving revenue from the Laminaria/Corallina fields owned by Woodside Petroleum, BHP Billiton and Shell. "Australia is continuing to take oil from the area in dispute at a rate of \$1 million a day," says Galbraith. "Because Australia is depleting the resource, the negotiations are a matter of great urgency." Alkatiri says he has written to the companies, warning them that "they are illegally exploiting resources that belong to East Timor." Australia won't stop, says Downer. "We have our legal rights."

Besides, he adds, if anyone needs "speeding up," it's East Timor. He's referring to the ratification of another agreement linked to the Timor Sea Treaty that will determine the tax and regulatory arrangements for Woodside's Greater Sunrise development. The so-called International Unitization Agreement was approved by Australia's Parliament in March; Alkatiri has not yet presented it to his legislature. That could be a tactical move or a tacit admission that the IUA has no hope of being passed in Dili. A company spokesman says Woodside expects the parties to sort out their differences: "We require legislative certainty to commence production by 2009." If the agreement is not ratified by the end of the year, Woodside says it would reconsider its options on the project, which could be worth \$25 billion.

Participants expected a stalemate after Round 1, but perhaps not so much bad blood.



CANDIDO ALVES/AFP-GETTY

"There was no progress," says Galbraith. "Australia is refusing to negotiate on the main issue—the location of the lateral boundaries." An Australian delegate counters that the Timorese have dressed up an ambit claim as a legal argument. "We will keep negotiating with them," says Downer (the next talks are scheduled for Canberra in September). "There's a significant gap at the moment, and closing that gap will take a long time." A Dili source close to the talks says the public rancor will soon end. Antunes says a negotiated settlement could be achieved, "but only if both parties are willing to adjust their posi-

tions and accommodate the key objectives of the other side." Says an Australian diplomat: "It's very early days. You stop negotiating when both sides are equally satisfied and equally dissatisfied with what's on the table." Alkatiri says his country is open to a "creative solution" on the disputed areas but would call on "mutual friends" if the talks did not yield a result. Downer dismissed the need for outside help. "We don't subcontract out our national interest." Australia, he says, would welcome fresh approaches: "We have heard a lot of abuse and criticism, but in terms of constructive solutions, let's see them." ■