



Submission No 76

Inquiry into Australia's Relationship with Timor-Leste

Name: Department of Defence (Supplementary)

Joint Standing Committee on Foreign Affairs, Defence and Trade
Foreign Affairs Sub-Committee



Australian Government

Department of Defence

Supplementary Submission

**To the Joint Standing Committee on Foreign Affairs,
Defence and Trade**

Australia's Relationship with Timor-Leste

Topic: General

Question in Writing

1. Why should Australia support the security and stability of Timor-Leste?

Answer

It has been the view of successive Australian governments that Australia's future security and prosperity is linked very closely with the security of its immediate region. Most recently the 2013 Defence White Paper has confirmed this judgment, which is consistent with the views expressed in the 2012 National Security Strategy and the Australia in the Asian Century White Paper.

The 2013 Defence White Paper identifies the security and stability of Australia's immediate neighbourhood, including Timor-Leste, as a strategic interest second only to the defence of Australia in the context of Australia's strategic policy approach. Accordingly, Australia will continue to play a leading role in assisting South Pacific states and Timor-Leste to improve the governance, capabilities and professionalism of their security forces. This assistance serves both our strategic and humanitarian interests. Underlying these strategic judgments are the shared history and close people-to-people links between Australia and Timor-Leste that contribute to the Australian Government's continuing commitment to strengthening sovereignty and assisting with security and stability in Timor-Leste, with the agreement of the Government of Timor-Leste and working in cooperation with our partners.

Topic: General

Question in Writing

2. On page 2 of your submission, you comment that the Timor-Leste Defence Force (F-FDTL) was historically based on guerrilla warfare and is now adjusting to a more conventionally structured defence force, as well as direct civilian oversight by the government and parliament.
- a. How well is the F-FDTL adjusting to this new operating environment?
 - b. How effective is the working relationship between the F-FDTL and the Timor-Leste police force?

Answer

- a. The F-FDTL has made significant strides in its development as a conventional military force from its origins as a guerilla force. Civilian oversight of the F-FDTL is enshrined in Timor-Leste's Constitution and is routinely exercised by the President, Prime Minister (who is also Minister for Defence and Security) and Secretary of State for Defence. The F-FDTL has consolidated its force structure along conventional lines, consisting of a headquarters element; a land component; a naval component; a service component; a training component; and a military police company. The headquarters component is structured according to the NATO general staff system. Timor-Leste, which has in the recent past been the recipient of a United Nations peacekeeping mission, has itself now contributed F-FDTL members to UN peacekeeping missions in Lebanon and South Sudan. Under the Defence Cooperation Program, Defence will continue to work with the F-FDTL to further develop its capabilities and professionalism.
- b. The F-FDTL and the Timor-Leste Police Force (PNTL) have an effective working relationship and the security environment has stabilised significantly since conflict between F-FDTL and PNTL members contributed to the Government of Timor-Leste requesting the assistance of the Australian Government to restore security in 2006. During the 2012 national elections in Timor-Leste, the F-FDTL and PNTL worked effectively together to provide security. The International Stabilisation Force (ISF) was available to provide security support at the Government of Timor-Leste's request. However, it was not called upon to do so.

Topic: Security operations

Question in Writing

3. You draw attention on page 2 of your submission to Australia's leadership of the International Stabilisation Force (ISF) to restore stability following the 2006 crisis in Dili.

The submission from the SEARCH Foundation comments on pages 4–5:

In the 2006 political and civil crisis in Timor-Leste, the Australian troop deployment was never approved by the Timorese Council of Ministers. Neither was it approved by the National Parliament. Key FRETILIN members at the time were adamant that such an agreement was not constitutionally valid unless it has the approval of either the Council of Ministers or of the National Parliament, preferably both. ... The legacy from this deployment must still be resolved to continue to take [the] Australia–Timor-Leste relationship forward. (Sub. 15, pp. 4–5.)

Would you comment? Was the 2006 deployment constitutionally valid?

Answer

Australia deployed troops to Timor-Leste in 2006 in response to a request from the Government of Timor-Leste. On 24 May 2006, the President of Timor-Leste, the Prime Minister and the President of the Parliament of Timor-Leste jointly wrote to the Prime Minister of Australia, requesting Australian support in restoring security, confidence and peace in Timor-Leste. The principal source of law in Timor-Leste is the Constitution, which recognises the President, Prime Minister and President of Parliament as having official capacities within Timor-Leste. Accordingly, they have legal authority to make a request for security assistance on behalf of Timor-Leste. Upon receiving this request, the then-acting Prime Minister of Australia immediately responded that, subject to appropriate conditions being agreed, Australia would provide military assistance to re-establish and maintain public order in Timor-Leste. By an Exchange of Notes on 26 May 2006, an Arrangement was constituted between the two governments applying to the deployment of Visiting Personnel to Timor-Leste. This Arrangement met the requirements contained in the Acting Prime Minister's letter of 24 May for appropriate conditions being agreed between the two countries.

Topic: Security Operations

Question in Writing

4. The submission from the Timor-Leste Institute for Development Monitoring and Analysis suggests that the ISF should be more accountable. It states:

In August 2010, the Australian Department of Defence admitted that since 2008, Australian ISF soldiers had been in nine vehicle crashes in which civilians were injured. Unfortunately, the Status of Forces Arrangement between Timor-Leste and Australia exempted ISF personnel from Timor-Leste laws and judicial systems, and the ISF was not under UN jurisdiction. Timor-Leste citizens had no avenue for effective action to resolve complaints against the ISF. ...

Australia's Department of Defence should provide full details of all incidents involving its personnel that injured or killed Timor-Leste people ... Even though ISF has now come home, many cases are unresolved and should be addressed promptly. (Sub. 40, pp. 5–6.)

- a. Would you comment? Is it usual for ADF personnel to be exempt from local laws when they are deployed overseas?
- b. How do you respond to the request from the Timor-Leste Institute for Development Monitoring and Analysis for disclosure of the details involving accidents involving ISF personnel?

Answer

a. It is usual that agreements and arrangements for the deployments of Australian personnel deployed overseas address how local laws will apply to Australian personnel. Whether and to what extent local laws will apply to Australian personnel and the process for making claims in respect of those laws are matters for negotiation and agreement between state parties and will depend on the role that the Australian personnel fulfill.

b. Under the former Status of Forces Agreement between Australia and Timor-Leste, the Government of Timor-Leste was to deal with and meet any claims for compensation in accordance with its national laws, regulations and policies. Timorese citizens were able to make complaints against International Stabilisation Force (ISF) and Defence Cooperation Program (DCP) personnel at any ISF base, the Australian Embassy or the Government of Timor-Leste. As part of ISF standing procedures, compensation forms were handed to Timorese citizens involved in motor vehicle accidents. Complaints made against the ISF were investigated by both the ISF and the Government of Timor-Leste, and resolved by negotiation between the two parties. Australia does not disclose the details of individual cases or outcomes.

Topic: Defence Cooperation Program

Question in Writing

5. You advise on page 3 of your submission that there are currently 24 Australian DCP personnel in Timor-Leste, who engage with the F-FDTL and Secretariat of Defence to build capacity in a range of areas. You provide details of a number of outcomes.

How long will it be necessary for those DCP personnel to remain in Timor-Leste?

Answer

The Defence Cooperation Program in Timor-Leste aims to help develop the capacity and professionalism of the F-FDTL and Secretariat of Defence. The Australian Government will continue to provide assistance to the Government of Timor-Leste under the Defence Cooperation Program for so long as the Government of Timor-Leste requests such assistance. Defence Cooperation Program personnel are usually posted for periods of two years but, subject to mutual agreement, this can be extended to three years for certain individuals. The number and duties of such personnel will remain a matter for agreement between Australia and Timor-Leste.

Topic: Outlook for the defence relationship

Question in Writing

6. On page 33 of the Transcript there is a discussion of your maritime security program and the development of the F-FDTL's maritime component.

- a. What equipment does the F-FDTL's maritime component currently operate?
- b. Would you provide more information on the equipment and support which would be needed to create an effective maritime component?
- c. What role is there for Australia in the creation of an effective maritime component?

Answer

a. The F-FDTL maritime component currently operates five patrol boats and two Rigid Hull Inflatable Boats (RHIBs):

- Two *Albatross* class boats, donated by Portugal;
- Two *Jaco (Shanghai)* class boats, bought from the People's Republic of China; and
- One *Chamsuri* (Dolphin) class boat, donated by the Republic of Korea.
- Two RHIBs,

b. None of the F-FDTL's vessels are capable of operating safely off Timor-Leste's south coast, a key area of risk for illegal fishing and transnational crime. The current fleet is also unsuitable for operating in the rough conditions prevalent in the south coast area. The Naval Base at Port Hera lacks infrastructure suitable to adequately berth the F-FDTL's vessels, and does not have maintenance or slipping facilities.

c. The 2013 Defence White Paper indicated that Timor-Leste would be invited to participate in the Pacific Maritime Security Program (PMSP), the follow-on the Pacific Patrol Boat Program. Participation could include the gifting of PMSP vessels, training and through-life-support assistance. Future Australian assistance to the F-FDTL's maritime component would be subject to agreement between the Australian Government and the Government of Timor-Leste.