

Mr Paul Cleary
c/- Allen and Unwin

Dear Mr Cleary

I have read with interest your book *Shakedown: Australia's grab for Timor oil*. I write to clarify my role in the events described in pages 224 to 228.

2. Those pages relate the breaking of an AusAID contract with the Timorese NGO, Forum Tau Matan, and what it was told of the reasons. You quote from a letter signed by me on 7 June 2005. That letter almost certainly gave at the time the false impression that the Australian Commonwealth's contract with Forum Tau Matan was broken because of a number of significant developments in the Australian aid program; the finalisation of Australia's country strategy; and a review of 'the ways in which we engage with NGOs in different sectors'.

3. You point out that the implication the contract was broken *because of* those reasons is contradicted by evidence given to the Australian Senate by AusAID's Mr Murray Proctor in November 2005, which made it clear that the decision was nothing to do with the country strategy, and was related only to Forum Tau Matan's support of a joint media release by a dozen NGOs criticising the Australian Government over the Timor Sea negotiations. You are correct to note this contradiction.

4. My 7 June letter was not drafted by me or my team, although as the signatory I take responsibility for it. It is in fact an interesting example of a deliberate deception hiding behind literal truth, one that I regret. I signed it under pressure from Canberra, and only because there was no explicit link between the second paragraph (breaking the contract) and the third (making some observations on the country strategy and how AusAID engages with NGOs). Hence I justified the letter to myself because it contained no actual untruths. Each paragraph was correct by itself; it is only if someone were to make the mistake of connecting the two that it becomes misleading.

5. However, it is clear that including the third paragraph at all in such a short letter is asking for that connection to be made. In retrospect, the letter can only be interpreted as deliberately misleading and I regret having signed it.

6. You may be aware that that letter occurred at a difficult time in my relationship with DFAT and AusAID management. In the weeks leading up to this letter, I had been pressured to provide information that went beyond deliberate deception to actual untruths; for example, the statement that "there is no one reason for the decision" (to break the contract), when there clearly was only one reason. Only by writing to the Australian Public Service Commissioner complaining of pressure to breach the Australian Public Service Code of Conduct had I been able to reduce this pressure. The eventual letter to Forum Tau Matan sent on 7 June avoided an outright lie, albeit only by replacing it with a misleading insinuation.

7. From June to August 2005, DFAT conducted an investigation of my complaint about pressure to breach the Code of Conduct. During this investigation, I persisted in arguing that any funding reasons should be made for clear and transparent reasons, and that the reasons must be provided to any NGOs that were not funded or defunded on account of their signature of media statements about the Timor Sea.

8. I was particularly concerned about ongoing programs; while the Minister for Foreign Affairs had taken the decision to break the Forum Tau Matan contract, future decisions in the East Timor Community Assistance Scheme (ETCAS) were delegated to me and I would not take such decisions on any grounds other than publicly available criteria. Accordingly, as part of an unrelated general revision of the ETCAS guidelines, my team inserted the proviso that we would not fund “Activities to be managed by organisations considered to be a significant risk for fraud, terrorism, exploitation of children, other criminal activity, or conducting political advocacy that is counter to Australia’s national interest.” Over the next six months, grant applications from Labeh (anti-corruption awareness) and Haburas (environmental education) were refused by me on the grounds of this criterion, and the organisations notified of this reason when they persistently asked for an explanation.

9. My over-riding concern about treating ongoing programs in a transparent and accountable way led me to concede more ground than was wise on the specific case of what should be told to FTM. It was while these discussions were under way that I signed the misleading letter of 7 June 2005.

10. In the course of the DFAT investigation in 2005 it was actually agreed at an extremely senior level that there should be no deception about the Forum Tau Matan case. Accordingly, Australian Ambassador HE Margaret Twomey and I informed Forum Tau Matan of the full reasons, orally, on 28 July 2005 (please note that the otherwise-accurate La’o Hamutuk chronology of these events omits Twomey’s involvement in this meeting). There was no deception or misleading behaviour in this meeting. The reason for breaking the contract was thus made transparent well before Proctor’s November 2005 Senate testimony (although Hansard from that testimony was probably the first written record of the single reason).

11. For the record, the DFAT preliminary investigations into my claims that I was pressured to be dishonest, and later claims that I was retaliated against because of the first claims, found in both cases that there was no breach of the APS Code of Conduct by the officers I had named. These findings were endorsed by subsequent reviews by the Australian Public Service Commissioner. I strongly disagree with the process and results of those reviews, but the matter is now formally closed unless I take civil legal action.

12. Nothing in this letter should be construed as a comment on the policy of the Australian Government pertaining to aid, East Timor or to the Australian Public Service.

13. As its purpose is to clarify the public record, I regard this as an open letter. Please note that I have placed a number of source documents about my case on a website at <http://www.netspeed.com.au/ellis/psa/>.

Yours sincerely

Peter Ellis
13 October 2007

cc: Mr Joao Pequinho, Forum Tau Matan (joapequinho@yahoo.co.uk)
Mr Charlie Scheiner, La'o Hamutuk (cscheiner@igc.org)