

# The Washington Post

*Democracy Dies in Darkness*

## Australia approves treaty with East Timor over gas royalties

By Rod McGuirk | AP July 30

CANBERRA, Australia — Australia's Parliament has approved the ratification of a maritime boundary treaty signed with East Timor 16 months ago and the government is now under pressure to return tens of millions of dollars in royalties from a seabed gas field that it concedes solely belongs to the poor half-island nation.

The Parliament late Monday passed legislation enabling ratification of the treaty, a week after Australia's impoverished neighbor voted in favor of similar legislation that governs how the two countries will share billions of dollars of oil and gas riches lying beneath the Timor Sea.

The treaty was signed in New York in March last year, but won't take effect until it is ratified by an exchange of diplomatic notes when Prime Minister Scott Morrison visits East Timor on Aug. 30, the 20th anniversary of a referendum that secured independence from Indonesia, which invaded the former Portuguese colony in 1975.

Australia will continue earning 10% of the royalties from the Bayu Undan oil and gas field until then, when East Timor takes full ownership of the field which is expected to be empty within a few years.

East Timorese independence hero and the country's chief negotiator on the treaty, Xanana Gusmao, said his country was losing \$5 million a month while the agreement remained unratified.

Donald Rothwell, an Australian National University expert on international law, said on Tuesday that a provision of the treaty stipulated that no compensation was to be paid to either party as a result of the new border arrangements.

"Once the treaty becomes operative, there is no obligation at all on Australia to pay any type of compensation, as some calls have been made to that end," Rothwell said.

Steve Bracks, a former Victoria state premier and founder of the Timor-Leste Governance Project aid organization, described Australia continuing to take revenue from Bayu Undan as "pretty outrageous."

Charlie Scheiner, a researcher at La'o Hamutuk, an East Timorese research institute, said Australia had made \$5 billion from oil and gas that it now agrees is in East Timor's territory.

"Australia had no right to get 10% of Bayu Undan," Scheiner told Australian Broadcasting Corp. "We hope that Australia will do the right thing and repay the money that it took from now things that they don't even claim belong to Australia anymore."

Australia's Department of Foreign Affairs and Trade did not comment on the question of compensation, but said in a statement on Tuesday: "We look forward to formally bringing the treaty into force as soon as possible."

The treaty states that "the parties agree that neither party shall have a claim for compensation with respect to petroleum activities conducted in the Timor Sea."

Rothwell described that clause as "a little unusual," and reflected the multiple Timor Sea agreements over the decades that Australia had with Indonesia then East Timor.

“Having that sort of compensation clause is really a lawyer’s way of making sure that there’s no further comeback on these issues,” Rothwell said.

Under the treaty, East Timor will get the biggest share of revenue from exploiting the untapped Greater Sunrise gas field. It will be split either 80-20 if gas is piped to Australia for processing or 70-30 if it is piped to East Timor.

East Timor wants the gas to be processed in its territory but investors are wary because it may not be economically viable.

Sharing the oil and gas riches that lie between Australia and East Timor has been a major irritant between the neighbors since 2002 when East Timor emerged as a fledgling nation of 1.5 million people independent of Indonesia.

Australia and East Timor signed a 2006 treaty on sharing future Greater Sunrise revenue. But the relationship plunged when East Timor accused Australian spies of bugging its Cabinet discussions in 2004 to achieve an unfair negotiation advantage. Australia denied the allegation.

A whistleblower spy and his lawyer Bernard Collaery appeared briefly in a Canberra court on Tuesday charged with conspiracy to communicate secret information concerning the bugging allegation.

Collaery’s lawyer Ken Archer told the Australian Capital Territory Magistrates Court that his client wanted the charges heard in the Supreme Court.

Robert Richter, who represents the spy, who is known as Witness K, told Chief Magistrate Lorraine Walker that his client wanted his charges heard separately by a magistrate.

Walker adjourned the case until Aug. 6, while lawyers discuss how to proceed. The lawyer and spy each faces a potential two-year prison sentence if convicted.

Former East Timor president and Nobel Peace Prize laureate Jose Ramos-Horta has urged Australia to drop the charges because the pair had been acting on their consciences when they raised the allegations.

East Timor’s oil revenues, which finance more than 90 percent of government spending, are rapidly dwindling due to the exhaustion of existing fields in its territory. The country’s \$16 billion sovereign wealth fund could be empty within 10 years because the government’s annual withdrawals are exceeding its investment returns, according to La’o Hamutuk.