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The Secretary
Joint Standing Committee on Treaties
Parliament of Australia
Parliament House
CANBERRA ACT
AUSTRALIA 2600

Dear Secretary,

**RE: INQUIRY INTO THE TIMOR SEA TREATY (2002)
and the Exchange Notes between East Timor and Australia (Timor Sea)**

Thank you for the opportunity to comment on your Committee's review of these two important agreements.

I think it crucial that a Parliamentary Committee is examining these agreements, and I urge you to use this opportunity to encourage the Australian Government to 'do the right thing' with respect to oil and gas reserves between Australia and East Timor.

It is clear from recent 'letters to the editor' that few Australians appreciate that the apparently 'generous' 9:1 'split' in East Timor's favour applies to only a relatively small proportion of the oil and gas reserves between our two countries.

As you will know, as a condition of the Timor Sea Treaty proceeding, Australia insisted on an annex covering the richer deposits of the Greater Sunrise field. Under this annex, East Timor will receive only 18% of revenues from the Sunrise field¹. This is despite advice to the East Timor Government that, under international law, the entire field could be within East Timor's maritime boundaries.

I believe that the Australian Government is exploiting the Australian public's confusion about those oil and gas reserves², between Australia and East Timor, which are not within the Joint Petroleum Development Area [JPDA]³ to which the 9:1 split applies.

¹ Greater Sunrise has been estimated as having a A\$68B value over the field's 30-40 year economic life.

² These include oil reserves to the northeast of the JPDA and gas and oil reserves to the southwest.

³ The JPDA was known as Zone A under the Timor Gap Treaty with Indonesia.

I have followed closely the debate concerning the UN Convention on the Law of the Sea. Whilst current international law is open to interpretation and debate, it seems most likely that the correct maritime boundary between Australia and East Timor is midway between the two countries, in which case 100% of the Greater Sunrise reserves would belong to East Timor.

As you will be aware, however, the Australian Government recently withdrew from the jurisdiction of the International Court of Justice which adjudicates disputes regarding the UN Convention on the Law of the Sea. (Whilst it formally denies that this decision was taken to avoid the possibility that that Court would adjudicate in East Timor's favour regarding these 'other' reserves, our Government has not satisfactorily explained why it took this decision, and why it took it only several weeks before East Timor became an independent nation and the Timor Sea Treaty was formally signed.)

Our Government has insisted on a bilateral negotiation which may take up to 30 years (ie the likely life of the reserves) to resolve.

The Timorese leadership is understandably concerned by the Australian Government's ploy with respect to seabed boundary issues⁴. It understandably hopes that Australia will not persist with this snide and dishonest ploy to rob Timor of its legitimate claim to a much larger proportion (if not 100%) of these other reserves.⁵

I submit that the Australian Government's recent approach on these issues greatly damages the good work done by the Australian Government and people to assist in East Timor's recovery and reconstruction after the terror and destruction of September 1999⁶.

The otherwise good relations between Australia and East Timor should not be soured by this dispute over resources.

Also, Australia should not squander the regional and international goodwill that it earned in 1999. Our international reputation is already being damaged by the understandable international perception that Australia is manoeuvring to rob the Timorese of their resources.

⁴ East Timor's Prime Minister, Mari Alkatiri, has described Australia's withdrawal from the Court (with respect to its jurisdiction concerning seabed boundaries) as an 'unfriendly act'.

⁵ I am given some hope that the Australian Government recognises some legitimacy in the East Timorese argument for a fairer share of these 'other' reserves. Surely it would not otherwise have agreed to revise the Greater Sunrise resource sharing arrangements (as they currently appear in the JPDA definitions of the Timor Sea Treaty).

⁶ Australia's intervention in 1999 helped restore some of the credibility we had lost by successive governments' apathy (or worse) towards the plight of our Timorese neighbours. But our recent investment in a free East Timor is little compensation for our previous betrayals of the East Timorese. In World War 2, Australia embroiled them in war with Japan, and many Timorese paid a very high price for this and for their support to Australian diggers who were greatly outnumbered by Japanese troops. We later stood by and allowed the East Timorese to be brutally invaded and occupied by Indonesia. Our intervention in 1999 was commendable, but in many senses was 'much too little much too late'.

I believe that:

- ordinary Australians would be appalled if they saw behind their Government's ploy in insisting on deliberately **drawn out** bilateral 'negotiations' regarding these 'other' reserves between our two countries;
- it would be a **travesty** if Australia robbed the Timorese of resources that are rightfully theirs;
- it would be a **tragedy** if Australia lost the respect of the international community for using its 'muscle' to do so.

I sincerely hope that your Committee will investigate these treaties impartially. I also hope that publicity to your Committee's valuable work will help Australians to understand why Australia should concede a bigger share of revenue from these 'other' reserves between Australia and East Timor⁷.

Whilst it would not cost Australia very much in terms of our GDP to concede a greater share of these resources, it would mean a great deal to a small, poor and newly independent nation that will otherwise be indefinitely dependent on foreign aid. It is surely better for East Timor to earn a fair share of revenue from its energy reserves than for Australia and other countries to have to pour in equivalent amounts of aid⁸.

I respectfully submit that:

- your Committee's inquiry is a unique and 'last chance' opportunity to prompt our Government to 'rethink' its deteriorating approach regarding Timor Sea oil and gas reserves;
- the Australian Government should make a genuine attempt to resolve the outstanding seabed boundary disputes and the related resource-sharing dispute (lateral to the JPDA) between Australia and East Timor;
- the dispute can only be resolved by resolving the definition of seabed boundaries, and this should be done promptly and with goodwill, according to international law in relation to seabed boundaries, and, if agreement cannot be reached readily, with the assistance of international arbitration.

Should you wish to contact me about this submission, please do not hesitate to do so.

Yours sincerely

Joan Simpson
29.7.02

⁷ Also, given that oil and gas exploration is proceeding in the Timor Sea, there may be reserves yet to be discovered and determined.

⁸ The revenue from Greater Sunrise alone will dwarf Australia's aid contributions to Timor.