

SUBMISSION NO. 17

From: Fisher, William Alford [William.Fisher@postgrads.unisa.edu.au]
Subject: Timor Sea Treaties

To: The Secretary,
Joint Standing Committee on Treaties
Parliament House
Canberra

My submission to the Committee's current enquiry into the Timor Sea Treaties follows:-

The Australian Government currently receives about US\$200 million in royalties annually from the Corallina/Laminaria oil & gas fields. According to UNCLOS (UN Convention on the Law of the Sea), all of those royalties should be going to East Timor. Canberra suddenly announced on March 25th 2002 that it would cease to recognise the International Court of Justice's right to determine maritime boundaries or UNCLOS as a method of resolving disputes. Two days earlier, East Timor had received legal advice of its entitlements under UNCLOS. They include all royalties from the small Corallina/Laminaria field and the much larger Bayu Undan field and the much larger still Greater Sunrise field. I put it to the Committee that Canberra's withdrawal from UNCLOS signifies the Howard Government's tacit recognition that it has no legal right to this oil & gas.

Canberra asserts that the seabed boundary should be drawn along the edge of Australia's continental shelf. In 1982 UNCLOS stated that, for countries with less than 400 nautical miles between them, the international boundary should be the locus of the mid-point (median line). Thus, under UNCLOS, all of the above oil & gas fields would be within East Timor's economic zone. The seabed boundary remains in dispute, as it did throughout the operation of the infamous Timor Gap Treaty (1989-1999) with Indonesia. I would like to hear from the Committee if it can name a more disgraceful act in Australian history than the signing of that treaty to the clink of champagne glasses high above the Timor Gap in 1989. It was an act of piracy supported by mass murder in East Timor. Canberra's present act of piracy in the Timor Gap is supported by bully-boy tactics against a new & much weaker neighbour & the refusal to allow any umpire's decision.

The present royalties are tiny compared to expected future royalties from the larger fields, but they are significant in relation to East Timor's current financial situation. The Indonesian army's scorched-earth destruction in 1999 left East Timor's economy in ruins. The Dili Government expects to collect only US\$40m. in tax revenue this year, giving it a US\$37m. shortfall on its modest \$77m. budget. It is asking international donors to cover the shortfall this year & another expected \$60m. shortfall from 2003-2005. The oil & gas revenue Canberra is stealing now would cover not merely Dili's budget shortfall, but easily its entire annual budget. I wonder how the generous international donors would feel about that equation if it were made more public. I wonder if it will continue to be necessary to parade these matters on the international stage.

While the Committee is pondering such hypotheticals, it should also consider some of the harsher realities of life in East Timor today. East Timor continues to have one of the highest rates of infant mortality in the world. 41% of East Timorese live in poverty, 48% are illiterate. Life expectancy is 57 years. It is the poorest country in Asia, & one of the 20 poorest in the world (UN Development Report 2002). Ermera Hospital went without electricity for several weeks earlier this year. Basic medicines are in short supply. Most rural communities have no access to doctors or nurses. In Dili, blackouts happen daily. Most towns have power for a few hours a day, often not every day. Only 20% of East Timorese have access to running water. I think there's a good case for resuming AusAid's Water Project, aborted in

February 1999 when militias threatened to kill aid-workers, both Australian & Timorese. It had been a case of excellent use of Australian foreign aid.

While Canberra takes the \$200m. a year East Timor so urgently needs, Dili has to go cap-in-hand to donors, leaving the funds it needs under the control of the World Bank. It remains to be seen what role the World Bank will play in providing the funds to Dili, but it poses a potential threat to East Timor's hard-won independence. It can't have escaped the Committee's notice that a fishing boundary was quickly agreed with Indonesia as early as 1981; & formally agreed to in a treaty in 1997, setting the waters boundary along the median line in accordance with international law (UNCLOS). The 1981 agreement actually anticipated UNCLOS. I guess oil & gas are worth a bit more than fish.

Under present arrangements, East Timor will get 90% of Bayu Undan royalties & 18% of Greater Sunrise, Australia 10% & 82% respectively. East Timor's Parliament has asserted its entitlements under UNCLOS, but is willing to negotiate. With the unitisation agreement on Greater Sunrise to be signed by the end of this year, now is the time for Canberra to realise it must negotiate with Dili. East Timor could benefit a great deal from a cooperative partner relationship with Australia in developing the Timor Sea resources, but the present royalty split on Greater Sunrise is so grossly unjust that it cannot be allowed to stand. It shouldn't be necessary to shame Canberra internationally for stealing from Asia's poorest nation. Canberra should realise it must be seen to be fair to the newest nation. East Timor's Parliament demands a fair deal, East Timor's people do too; Australians, when told the facts, will too - & so will other nations. A fair partnership with Australia in the Timor Sea would enable East Timor to develop its resources far better than with no partnership at all. I propose a deal giving Dili 80% or 90% of Greater Sunrise royalties - but this is just playing with numbers. The necessary first step is serious negotiations between Dili & Canberra.

In return for allowing Australia 10% or 20% of royalties it's not entitled to a cent from, East Timor should get substantial agreements from Canberra to several things it needs more than royalties. Substantial Timorese employment in all aspects of the oil & gas industry - & training, including relevant higher education, to prepare for that. The present clause relating to this in the agreement is too vague to be meaningful & needs to be given substance by definite arrangements between the governments. There must be substantial Timorese participation at all higher levels of employment in the industry. East Timor's Foreign Minister has asked Australia to provide military defence of the Timor Sea resources. Canberra should counter-propose growing Timorese participation in that defence, & provide suitable military hardware such as helicopters, 'planes, patrol boats & some larger naval vessels & the relevant training for substantial Timorese participation. Australia is also well-positioned to provide scholarships for education & training in vital areas such as agriculture & tourism.

Australia could do all this & more, & still make a lot of money out of the Timor Sea. We could make a fair deal with East Timor & help develop our nearest neighbour which is presently the poorest country in Asia, helping create stability in the region based on justice. Or we could become known as the scumbag of the region, bullying the weak & stealing from the desperately poor. I know which I want. If Canberra chooses the wrong path on this, I won't hesitate to tell it like it is - long & loud, here & everywhere.

Submission from Bill Fisher,
member of Australia East Timor Friendship Association,
South Australia