EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF EAST TIMOR AND THE GOVERNMENT OF AUSTRALIA CONCERNING ARRANGEMENTS FOR EXPLORATION AND EXPLOITATION OF PETROLEUM IN AN AREA OF THE TIMOR SEA

BETWEEN EAST TIMOR AND AUSTRALIA

The Ministry of Foreign Affairs of the Democratic Republic of East Timor presents its compliments to the Australian Embassy in Dili and has the honour to refer to the Timor Sea Treaty between the Government of Australia and the Government of the Democratic Republic of East Timor, signed at Dili on 20 May 2002 (`the Treaty') and Australia's note to the Ministry No 01 dated 20 May 2002 which read as follows:

The Australian Embassy in Dili presents its compliments to the Ministry of Foreign Affairs of the Democratic Republic of East Timor and has the honour to refer to the Timor Sea Treaty between the Government of Australia and the Government of East Timor, signed at Dili on 20 May 2002 ("the Treaty").

2. From the date of independence of East Timor until the entry into force of the Treaty, this Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall govern the exploration and exploitation of petroleum in the area, the co-ordinates of which are set out in Annex A.

3. Such exploration and exploitation shall take place in accordance with the arrangements in place on 19 May 2002, with Australia and the Democratic Republic of East Timor being the implementing parties.

4. (a) Pending entry into force of the Treaty, East Timor may apply its law on Value Added Tax in accordance with the Taxation Code under the Treaty in a manner consistent with the formula contained in Article 4 of the Treaty;

(b) Pending entry into force of the Treaty, East Timor may apply its law on Income Tax in respect of taxation under that law withheld monthly in accordance with the Taxation Code in a manner consistent with the formula contained in Article 4 of the Treaty;

(c) Pending entry into force of the Treaty, the revenue from the sale of the Australian share of First Tranche Petroleum from the Elang-Kakatua deposit that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a US dollar denominated interest bearing escrow account held by the Joint Authority. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty;

(d) Pending entry into force of the Treaty, income tax calculated and levied by annual assessment upon net income directly derived from petroleum production by a company

which is a contractor in a production sharing contract in the area, by Australia, that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a US dollar denominated interest bearing escrow account. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty.

5. Upon entry into force of the Treaty, all its provisions shall apply and be taken to have applied on and from the date of independence of East Timor and adjustments shall then be made to reflect the application of the Treaty from that date.

This Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall cease to be in force from the time of entry into force of the Treaty.

7. Nothing contained in this Exchange of Notes and no acts taking place while this Exchange of Notes is in force shall be interpreted as prejudicing or affecting Australia's or the Democratic Republic of East Timor's position on, or rights relating to,

a) a seabed delimitation or their respective seabed entitlements; or
b) any previous agreements relating to the area.

8. In agreeing to continue the arrangements in place on 19 May 2002, pending the entry into force of the Treaty, the Government of the Democratic Republic of East Timor does not thereby recognise the validity of the `Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia' (the `Timor Gap Treaty') or the validity of the `integration' of East Timor into Indonesia.

9. The Government of Australia and the Government of the Democratic Republic of East Timor agree that the Treaty is suitable for immediate submission to their respective treaty approval processes and to work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty.

The Australian Embassy in Dili avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Democratic Republic of East Timor the assurances of its highest consideration.

Dili, 20 May 2002

ANNEX A

Where for the purposes of this Exchange of Notes it is necessary to determine the position on the surface of the Earth of a point, line or area, that position will be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of 1/298.25 and by reference to the position of the

Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25°56'54.5515" South and at Longitude 133°12'30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

THE AREA

The area bounded by the line-

(a) commencing at the point of Latitude 9deg. 22' 53" South, Longitude 127deg. 48' 42" East;

(b) running thence south-westerly along the geodesic to the point of Latitude 10deg. 06' 40" South, Longitude 126deg. 00' 25" East;

(c) thence south-westerly along the geodesic to the point of Latitude 10deg. 28' 00" South, Longitude 126deg. 00' 00" East;

(d) thence south-easterly along the geodesic to the point of Latitude 11deg. 20' 08" South, Longitude 126deg. 31' 54" East;

(e) thence north-easterly along the geodesic to the point of Latitude 11deg. 19' 46" South, Longitude 126deg. 47' 04" East;

(f) thence north-easterly along the geodesic to the point of Latitude 11deg. 17' 36" South, Longitude 126deg. 57' 07" East;

(g) thence north-easterly along the geodesic to the point of Latitude 11deg. 17' 30" South, Longitude 126deg. 58' 13" East;

(h) thence north-easterly along the geodesic to the point of Latitude 11deg. 14' 24" South, Longitude 127deg. 31' 33" East;

(i) thence north-easterly along the geodesic to the point of Latitude 10deg. 55' 26" South, Longitude 127deg. 47' 04" East;

(j) thence north-easterly along the geodesic to the point of Latitude 10deg. 53' 42" South, Longitude 127deg. 48' 45" East;

(k) thence north-easterly along the geodesic to the point of Latitude 10deg. 43' 43" South, Longitude 127deg. 59' 16" East;

(l) thence north-easterly along the geodesic to the point of Latitude 10deg. 29' 17" South, Longitude 128deg. 12' 24" East;

(m) thence north-westerly along the geodesic to the point of Latitude 9deg. 29' 57" South, Longitude 127deg. 58' 47" East;

(n) thence north-westerly along the geodesic to the point of Latitude 9deg. 28' 00" South, Longitude 127deg. 56' 00" East; and

(o) thence north-westerly along the geodesic to the point of commencement.

2. The Ministry of Foreign Affairs of the Democratic Republic of East Timor has the honour to advise that the foregoing proposal is acceptable to the Government of the Democratic Republic of East Timor and to agree that the Australian Note and this reply shall constitute an Agreement between the Democratic Republic of East Timor and Australia.

The Ministry of Foreign Affairs of the Democratic Republic of East Timor avails itself of this opportunity to renew to the Australian Embassy in Dili the assurances of its highest consideration.

Dili, 20 May 2002

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND

THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF EAST TIMOR CONCERNING ARRANGEMENTS FOR EXPLORATION AND EXPLOITATION OF PETROLEUM IN AN AREA OF THE TIMOR SEA BETWEEN AUSTRALIA AND EAST TIMOR

The Australian Embassy in Dili presents its compliments to the Ministry of Foreign Affairs of the Democratic Republic of East Timor and has the honour to refer to the Timor Sea Treaty between the Government of Australia and the Government of East Timor, signed at Dili on 20 May 2002 ("the Treaty").

2. From the date of independence of East Timor until the entry into force of the Treaty, this Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall govern the exploration and exploitation of petroleum in the area, the co-ordinates of which are set out in Annex A.

3. Such exploration and exploitation shall take place in accordance with the arrangements in place on 19 May 2002, with Australia and the Democratic Republic of East Timor being the implementing parties.

4. (a) Pending entry into force of the Treaty, East Timor may apply its law on Value Added Tax in accordance with the Taxation Code under the Treaty in a manner consistent with the formula contained in Article 4 of the Treaty;

(b) Pending entry into force of the Treaty, East Timor may apply its law on Income Tax in respect of taxation under that law withheld monthly in accordance with the Taxation Code in a manner consistent with the formula contained in Article 4 of the Treaty;

(c) Pending entry into force of the Treaty, the revenue from the sale of the Australian share of First Tranche Petroleum from the Elang-Kakatua deposit that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a US dollar denominated interest bearing escrow account held by the Joint Authority. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty;

(d) Pending entry into force of the Treaty, income tax calculated and levied by annual assessment upon net income directly derived from petroleum production by a company which is a contractor in a production sharing contract in the area, by Australia, that East Timor would otherwise have collected had the Treaty been in force from the date of signature will be placed in a US dollar denominated interest bearing escrow account. The monies from that account (including interest) will be paid to East Timor on entry into force of the Treaty.

5. Upon entry into force of the Treaty, all its provisions shall apply and be taken to have applied on and from the date of independence of East Timor and adjustments shall then be made to reflect the application of the Treaty from that date.

6. This Exchange of Notes constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor shall cease to be in force from the time of entry into force of the Treaty.

7. Nothing contained in this Exchange of Notes and no acts taking place while this Exchange of Notes is in force shall be interpreted as prejudicing or affecting Australia's or the Democratic Republic of East Timor's position on, or rights relating to,

a. a seabed delimitation or their respective seabed entitlements; or
b. any previous agreements relating to the area.

8. In agreeing to continue the arrangements in place on 19 May 2002, pending the entry into force of the Treaty, the Government of the Democratic Republic of East Timor does not thereby recognise the validity of the `Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia' (the `Timor Gap Treaty') or the validity of the `integration' of East Timor into Indonesia.

9. The Government of Australia and the Government of the Democratic Republic of East Timor agree that the Treaty is suitable for immediate submission to their respective treaty

approval processes and to work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty.

The Australian Embassy in Dili avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Democratic Republic of East Timor the assurances of its highest consideration.

Dili, 20 May 2002

ANNEX A

Where for the purposes of this Exchange of Notes it is necessary to determine the position on the surface of the Earth of a point, line or area, that position will be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 metres and a flattening of 1/298.25 and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25°56'54.5515" South and at Longitude 133°12'30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

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(n) thence north-westerly along the geodesic to the point of Latitude 9deg. 28' 00" South, Longitude 127deg. 56' 00" East; and

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