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East Timor/Australia Talks

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Madeleine Byrne

In Canberra last week, representatives from East Timor and Australia met to resolve the longstanding dispute over access to resources in the Timor Sea.

The latest round of talks focussed on the establishment of a 'resource sharing agreement' between Australia and East Timor. Such an agreement would provide the legal framework for petroleum projects to proceed in the absence of permanent maritime boundaries. Coming only months after accusations of stand-over tactics by Canberra, the talks were quickly deemed a success.

'I'll only say this,' said foreign minister Alexander Downer. 'I think we've made progress'. A framework of an agreement between the two countries had been 'nutted out', he said. This 'creative solution' would postpone negotiations over a permanent maritime boundary in the Timor Sea in favour of revenue sharing.

Bilateral talks twice broke down last year. With East Timor chiding Australian dealmakers for their 'take it or leave it' stance and Australia dismissing Dili's 'ambit claims' that it said ignored Indonesian interests. (The Australian officials claim that East Timor is claiming parts of the Timor Sea that are in fact, Indonesian).

The department of foreign affairs and trade (DFAT) says East Timor put forward the idea of a 'creative solution' in August as a way of ending the impasse.

In return for postponing its claim to a permanent boundary mid-way between the two nations - the so-called median line - East Timor could reportedly receive $3 billion over the next thirty years.

No official figures have been released, however, and in late February a senior DFAT official said that Australia had not yet offered any money.

At that stage, the nature of this 'sovereignty offset' was also unclear, as was whether or not the payments would come in the form of aid.

'How it is characterized, how it is paid and how much it is will need to be worked out in our negotiations,' the senior official said.

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Not unlike in Hong Kong that saw the territory's return to China, while sidestepping the controversial subject of home rule, DFAT says the creative solution offers fiscal certainty, without jeopardizing either country's future legal claims.

Australian companies, such as Woodside Petroleum Ltd and its international partners, would welcome the news.

Its proposed development of the Timor Sea's largest gas field - the Greater Sunrise - stalled when both parties failed to reach an agreement by the Christmas deadline.

Though located eighty kilometres from East Timor, around 80 per cent of the Greater Sunrise's reserves lie within seabed that is sovereign to Australia.

Gillian Triggs, director of Melbourne University's Institute of Comparative and International law, estimates its worth at around $8.5 billion. Since the area overwhelmingly falls within Australian territory 80 per cent of the revenue will flow south.

In contrast, the Joint Petroleum Development Area now exploited by both countries falls within East Timorese territory and has an expected value of $3.2 - $3.8 billion.

Jose Texeira, East Timor's chief negotiator, declined to comment following the talks.
But foreign minister Dr Jose Ramos Horta has previously shown interest in the idea of a creative solution.

'Without prejudicing either side over sovereignty claims, we should focus on revenue and resource sharing,' Dr Jose Ramos Horta said last year.

Despite the 'fog of myths' surrounding the subject, Professor Triggs says that seabed disputes need not go to an international judicial tribunal.

Australia has notched up an 'enviable record' of negotiating similar agreements with Papua New Guinea, New Caledonia and Indonesia, she says.

Moreover, the 1982 United Nations Convention on the Law of the Sea urges states to seek negotiated resolutions to boundary issues.

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Local advocates for East Timor suggest that its apparent interest in the deal reflects its limited bargaining power.

'With Australia playing hardball, they are probably going to have to compromise one way or the other,' says the Timor Sea Justice Campaign's Tom Clarke.

'For them, it is a matter of life and death,' he says. 'Every day that goes by, the Australian government takes an average USD $1 million contested royalties.'

Australia exploits approximately 150 000 barrels daily from the disputed Laminaria/Corallina fields, for example.

'(These) gas fields will be depleted in the next few years,' Clarke says, 'before any boundaries are set.'

DFAT, too, is conscious of time pressure and wants to resolve the matter quickly, especially since like negotiations have dragged on for decades.

'These things are not usually settled in a month or in a year or two; they usually take many, many years,' the senior official said in February.

Asked if negotiations on other issues should be postponed until the end of the thirty-year Greater Sunrise development project, the official replied: 'Our position is that the permanent boundaries should be put off for quite some considerable time. At least until the resources have been exploited.'

Tomas Freitas, from La'o Hamutuk (Walking Together), a Dili NGO that has advised the government on petroleum law, remains unconvinced of the new deal.

'We do not care how much money we're going to get from the Timor Sea,' he says.

'We will be proud if we can tell our children and grandchildren that the border between Timor-Leste and Australia is a median line, rather than a line to (Australia).'

He adds: 'If our leaders prefer money, rather than sovereignty, I think they will lose their people in the future.'

Yet money is a major concern for a nation that recorded a per capita GDP of US$478 in 2001. An open letter signed by more than a dozen US politicians and delivered to the prime minister earlier this month

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made this clear.

Urging speed, the politicians called for the establishment of a permanent maritime boundary and revenue from disputed oil and gas fields to be held in trust.

East Timor's citizens, the letter said, 'continue to struggle against illiteracy, poverty, preventable diseases and a lack of basic services'.

Particularly concerning to the politicians were reports of preventable deaths resulting from chronic food shortages and outbreaks of dengue fever.

'An equitable sharing of oil and gas reserves would enable Timor-Leste to provide better health care and other essential services to its citizens,' they wrote.

While acknowledging Australia's generosity to East Timor following its independence in 1999, the politicians said that the USD $2 billion Australia has received from the Laminaria/Corallina fields had repaid the debt.

Negotiations on the issue are, meanwhile, continuing.

About the author

Madeleine Byrne is a Fellow at OzProspect - a non-partisan public policy think tank - and former SBS and ABC journalist.

Links

Department of Foreign Affairs and Trade, DFAT including a Fact Sheet from February, 2005 ('Australia-East Timor Maritime Boundaries: Finding an Equitable Solution')
www.dfat.gov.au/geo/east_timor

Timor Sea Office, East Timor government website: www.timorseaoffice.gov.tp

La'o Hamutuk (Walking Together): www.etan.org/lh

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Timor Sea Justice Campaign: www.timorseajustice.org/index.htm

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