

Australia brushes aside East Timorese sovereignty in oil and gas deal

John Roberts
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The Australian and East Timorese governments agreed on April 29 to a new arrangement on the division of royalties from oil and gas projects in the Timor Sea. Three days of talks in the Timorese capital Dili were the culmination of more than four years of bullying that Canberra hopes will ensure effective Australian economic and political control of the offshore border region and the wealth beneath its waters.

Under the agreement, Dili has reportedly agreed to put off the final settlement of the maritime boundary between the two nations for a period of 50 to 60 years. In exchange, East Timor will receive an undisclosed percentage, instead of a fixed dollar amount, of revenue from the yet-to-be developed Greater Sunrise oil and gas field.

The one-sided deal will be worth in the region of an additional \$US2-5 billion to East Timor, according to Australian Foreign Minister Alexander Downer. Its main consequence, however, is that Canberra has succeeded in having Dili drop its claim of sovereignty over key resource-rich areas of the Timor Sea for two generations; by which time the oil and gas fields in the area will be commercially exhausted.

If current international law—the 1982 United Nations Convention on the Law of the Sea (UNCLOS)—were applied, the international boundary would be along a line equidistant from the land territories and the only fully operating field, the Laminaria-Corallina, would fall entirely under East Timorese control. Since the field began operating in November 1999, the Australian government has pocketed nearly \$US2 billion in royalties while East Timor has received nothing.

In 2003 alone, Australia received \$US172 million in royalties from Laminaria-Corallina—twice as much as the entire budget of the East Timorese government.

Previously, Dili had refused to concede on the question of sovereignty and the maritime boundary. It has now done so for a relative pittance, given that the total royalties from the Greater Sunrise field over its projected 35-year life may reach \$US38 billion.

If the agreement goes ahead, the East Timor parliament will approve what is known as the International Unitisation Agreement (IUA) which splits control of the Greater Sunrise field between the two countries. Under the IUA, Australia stands to gain 80 percent of the total revenue. East Timor will

gain only 20 percent, despite the field lying much closer to its territory than Australia.

Dili's chief negotiator at the talks, Foreign Minister Jose Ramos-Horta, put the best possible face on the outcome. He said "finding ways to allow the development of petroleum resources will bring significant economic benefit to both nations" and that East Timor "stands to benefit enormously from a final resolution".

Separation of the question of royalties and the defining of the maritime boundary has been at the centre of the Howard government's strategy to dominate the resources of the Timor Sea area since East Timor was created by UN fiat in May 2002, following its violent separation from Indonesia in 1999.

The position of the Timorese government, led by ex-Fretilin separatist leaders President Xanana Gusmao and Prime Minister Mari Alkatiri, was that the question of the maritime boundary, and therefore sovereignty, had to be settled as the basis for determining the rights of the two countries.

Dili requested monthly talks on the sea boundary and a settlement within five years. Canberra insisted on talks every six months and resolution in 99 years.

In late 2003, Alkatiri and Ramos-Horta demanded Canberra stop pilfering the Laminaria-Corallina royalties until the boundary issue was settled. Canberra ignored the request and the field will be exhausted within a few years.

Downer has brazenly touted in the media that Canberra has been generous in its dealings with East Timor, as it has given Dili 90 percent of the revenue from the Bayu-Undan field, which will start to flow in 2006 after gas deliveries to Japan begin. If the UNCLOS rule were applied, however, East Timor would be entitled to 100 percent of the revenue.

Far from being generous, the Howard government has exploited East Timor's desperate need for revenue from Bayu-Undan to force the sweeping concessions that have been made over the much larger Greater Sunrise field.

In March 2003, Howard stalled the necessary parliamentary legislation allowing the development of the Bayu-Undan until the last minute, threatening oil corporation Conoco-Phillips' contractual deadline for deliveries from the field and threatening the whole project with collapse. This manoeuvre forced the East Timorese government to agree to the IUA.

The East Timorese parliament, in an attempt to maintain some bargaining power, refused to ratify the IUA. The latest agreement, however, concedes it under conditions where the Bayu-Undan fields will be exhausted in about 15 years.

The unresolved question of sovereignty also deprives East Timor of any part of the servicing and processing involved with the fields, all of which is now concentrated in the northern Australian city of Darwin. While there is little infrastructure in East Timor, sovereignty over the Timor Sea resources would have given the Timorese state a say in the rate of exploitation of the fields and led to some transfer of skills and employment.

As it stands, these questions are entirely in the hands of Canberra and the oil corporations, including the Australian-based Woodside Petroleum, which is the major partner in the Greater Sunrise field. Woodside executives had threatened to abandon the project unless there was a settlement between Dili and Canberra.

The legal facade for the Howard government's ruthless handling of the dispute has been the 1972 and 1989 border treaties with the Suharto military dictatorship in Indonesia. The 1972 treaty favoured Australia by establishing the continental shelf as the boundary between the two countries. This agreement, however, left the 300 kilometre "Timor Gap" undecided as Portugal, the colonial power in East Timor at the time, refused to agree to Australian-Indonesian boundary.

As a payback for Australia being the only nation in the world to recognise the legitimacy of Suharto's bloody 1975 invasion of East Timor, Jakarta signed the 1989 Timor Gap treaty with the Hawke Labor Party government. This, in effect, extended the 1972 treaty to cover the border opposite East Timor. Both Portugal at the time and the new government installed in Dili in 2002 refused to accept the validity of the 1989 treaty. By then, the 1982 UNCLOS was in force, setting the midline border principle.

Canberra's weak position in international law was underscored by the Howard government's unilateral announcement in March 2002, that it would no longer accept maritime border rulings by the International Court of Justice and the International Tribunal for the Law of the Sea.

From the second half of 1999, when it was clear that Jakarta's brutal rule in East Timor was breaking down, the Howard government's preoccupation was safeguarding Australian capitalism's dominant position in the Timor Sea. The leading role played by Australia in the 1999 UN intervention into East Timor was aimed at ensuring that the tiny state was firmly under Australian financial and military domination. The unstable government in Dili has been reliant on Australian troops, police and economic aid, a situation ruthlessly exploited by Canberra in the dispute over royalties and sovereignty.

The pressure on Dili began immediately after East Timor's status as an independent nation was established in May 2002. Downer insisted that Alkatiri sign a new Timor Sea Treaty

(TST) that preserved the 1989 treaty's joint development zone, which is the basis for Australia's control of the seabed resources.

Despite the new government's almost total economic and military dependence on Australia, Alkatiri refused to sign away its right to negotiate new maritime boundaries. Dili signed the 2002 TST "without prejudice" to a final settlement of the sea boundary.

At every meeting since then, Canberra has blocked any such settlement. For the Howard government, and its supporters in the Labor Party opposition, the stakes are higher than just the royalties from the disputed fields. Among other things, Canberra fears that a renegotiated border with Dili will invite Jakarta to dispute the boundary with Indonesia established by the 1972 treaty, which Suharto allowed to favour Australia in return for political support for his regime.

Downer raised this concern again as the Dili talks began on April 26. "We're talking this issue through because what Australia doesn't want is to unravel all of our maritime boundaries which have been laboriously negotiated over many years with all of our neighbours."

This factor in part explains Canberra's arrogant treatment toward East Timor's negotiators and the callousness displayed toward the welfare of the population it claimed to have "liberated" in 1999.

While the meetings have been closed, leaked transcripts of the November 2002 negotiations give the flavour of four years of intimidation by the Australian representatives. Downer threatened to scuttle the commencement of the Bayu-Undan field, by refusing to ratify the TST, unless Dili agreed to the separate IUA covering the Greater Sunrise field.

Downer declared: "We can stop everything." Modifying the maritime boundaries, Downer insisted, was out of the question. "You can demand that forever for all I care," he told the Timorese, "you can continue to demand, but if you want to make money, you should conclude an agreement quickly.... We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics—not a chance."

Six years after East Timor's so-called "liberation", 40 percent of the population still live on 50 cents a day or less, life expectancy is just 40 years and the statelet's infant and maternal mortality rates are among the highest in the world. The plunder of the region's oil and gas wealth by Australian-based interests will perpetuate this suffering.



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