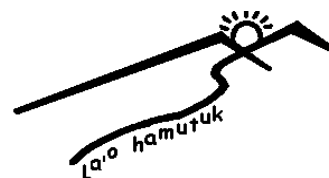


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Submission to

Australian Parliament Joint Standing Committee on Treaties

Parliament House, Canberra Australia

from

Timor-Leste Institute for Development Monitoring and Analysis

La'o Hamutuk

regarding the Inquiry into

Termination of Certain Maritime Arrangements in the Timor Sea

10 March 2017

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Introduction

La'ó Hamutuk is a Timor-Leste non-governmental organization established in 2000 to monitor and analyse the development process in Timor-Leste, as conducted by development partners, international agencies and the Timor-Leste Government. We work for policies which will benefit the people of Timor-Leste today and tomorrow.

We are grateful for this opportunity to share our thoughts with the Parliamentary inquiry on Certain Maritime Arrangements - Timor-Leste. We hope that our information will help Members understand the relationship between our two countries better, for mutual benefit and with respect for each other's rights, to improve the lives of people in both of our countries.

To begin, La'ó Hamutuk greatly appreciates the recent changes in Australian government policy to agree to complete termination of the CMATS Treaty, as well as Canberra's readiness to begin talks with Timor-Leste about maritime boundaries. We hope that this positive approach will continue not only for maritime boundaries, but for all issues of interest to both nations.

Don't undo the genuine solidarity between the Timorese and Australian people.

In 2013, the Timor-Leste Government brought a case to international arbitration in The Hague because Australia had spied on Timor-Leste government offices while we were negotiating the CMATS Treaty. This situation seriously impacted the relationship between the two countries for several years, and most Timorese people feel that the Australian Government has violated our rights.

The recent demonstrations organized by the Movement Against the Occupation of the Timor Sea (Movimentu Kontra Okupasaun Tasi Timor - MKOTT) showed the displeasure of the Timorese people with Australia's past unjust actions. We feel that people will continue to be resentful until the Australian Government respects Timor-Leste as a strategically important neighbour, rather than continuing to take our natural resources and deny our sovereignty.

In 2013, La'ó Hamutuk wrote to the Parliamentary Inquiry on Australia's relationship with Timor-Leste:

*"Timor-Leste can be an economic and political doorway for Australia into Southeast Asia, as we border Indonesia and will soon join ASEAN. We encourage Australia to see Timor-Leste as a strategic partner, and to consider our proximity as an opportunity rather than a security risk. Some Australians see Timor-Leste is a potential transit point for refugees and "illegal" immigrants, but there is much more to our country than that."*¹

¹ <http://www.laohamutuk.org/Oil/Boundary/2013/LHSubAustPNenquiry28Mar2013.pdf> or http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jfadt/timor_lest_2013/subs/sub%20040.pdf, page 2. That submission discusses some of the same issues as this one, but in more detail.

During the Second World War, many Timorese people helped Australian soldiers, and nearly 40,000 of our people died from the Japanese invasion. Later, during Indonesia's occupation, notwithstanding Australian diplomacy supporting the Suharto regime's annexation of Timor, many Australian people stood alongside the Timorese people to call for our self-determination. In addition, after we voted for independence in the 1999 referendum, the Australian-led INTERFET force ended the violent actions of Indonesian soldiers against our people.

We celebrate this history of genuine solidarity between our peoples, which should not be undermined merely because a few Australians desire Timorese seabed resources. La'o Hamutuk is confident that when the Australian government respects Timorese sovereignty and acknowledges our people's rights and wishes, the bonds between our peoples will grow even stronger.

In this submission, we would also like to encourage the distinguished Members of the Australian Parliament to explore and emulate the kind of people-to-people solidarity which tightly links local communities in Australia with people across Timor-Leste, as a model of how our two national governments could cooperate.

Australia has taken much more than it has given to Timor-Leste.

Many Australian people think that Australia has been a good donor to Timor-Leste, providing significant financial support over the past 18 years. Unfortunately, this is not true: from 1999 to the present, Australia has given less than \$2 billion in aid in the same period that Australia has taken \$5 billion from oil and gas resources in Timor-Leste's part of the Timor Sea.

This imbalance stems from Australia's stronger political and economic power, which it used to force Timor-Leste to sign the Timor Sea Treaty in May 2002. That treaty obliged Timor-Leste to hand over part of our Timor Sea wealth to Australia. Australia had already withdrawn from impartial legal mechanisms under the International Court of Justice and the International Tribunal for the Law of the Sea, opening the way for continuing occupation of Timor-Leste's sovereign maritime territory.

Sometimes, Australian officials forget that the part of our resources which you took could have gone to alleviating poverty, improving education and health care, and providing clean water to rural areas, all of which our people desperately need.

La'o Hamutuk thinks that mutual relations should be balanced, fair, based on solidarity and not taking advantage of each other's weaknesses. We appreciate that Timor-Leste has received significant benefits from Australian foreign aid, but undermining our people's sovereignty and future betrays Australian beneficence and humanity.

Timor-Leste struggled for its sovereignty, not to share money.

Intellectuals, politicians and those who work in the petroleum industry often tell the media or the public that when Timor-Leste has established a maritime boundary with Australia along the median line, Timor-Leste will lose part of the Greater Sunrise field to Indonesia.

This argument shows a misunderstanding of the values and principles of the struggle to liberate the Maubere people, from the resistance era through the independence period. Therefore, through this submission, La'o Hamutuk would like to explain to Members of Parliament that the people of Timor-Leste have always firmly insisted on their sovereign rights.

Timor-Leste, as a part of the international community, stands for and obeys the principles of international law, and we ask Australia also to comply with these obligations, as you are also part of the international community who purports to believe in the rule of law.

Unfortunately, up to now Australia has agreed to apply the median line legal principle to other neighbouring nations such as New Zealand, but not to Timor-Leste. In our submission to the 2013 Parliamentary inquiry, we wrote:

"... But we cannot understand why the democratic nation of Australia, which respects human rights and rule of law for its own citizens, is unwilling to apply those principles to its northern neighbour. Is Australia so afraid of a fair boundary settlement that you would rather be a bully than a good international citizen? Why do you continue to exploit advantages you obtained during the shameful and bloody Indonesian occupation of our country?"

Now is the time to talk about maritime boundaries.

Some people in Australia think that Timor-Leste's objective in terminating CMATS is to force the companies to bring the gas pipeline from Greater Sunrise to Timor-Leste's shore to support the South Coast petroleum infrastructure project (Tasi Mane project). We think that this perspective is incorrect – the struggle for people's sovereignty is distinct from any economic value this project may have.

For many years, La'o Hamutuk has advocated for a median line maritime boundary between Timor-Leste and Australia, according to international legal principles. During those same years, we have raised questions about the economic viability of the Tasi Mane project. We have often suggested that the Timor-Leste government not spend our people's money on this project, but invest more in education, health, and developing the non-oil economy. We think that if the Tasi Mane project were economically valuable, Timor-Leste should expect oil companies to finance it, rather than using public funds.

Timor-Leste restored its independence 15 years ago, but we have not yet achieved jurisdiction over our sovereign seas. That vacuum enabled Australia to take more than five billion of Timor-Leste's people's dollars from the Bayu-Undan, Kitan, Elang Kakatua, Laminaria-Corallina and Buffalo fields, and expect to take more from the Greater Sunrise field and other potential seabed resources.

The termination of the CMATS Treaty, which both parties announced in January 2017, is a positive step for Australia, which we hope represents a new policy to adhere to international legal principles. Once the boundary has been settled, we can begin discussing how to repatriate petroleum revenues which have already been misdirected.

For more than a decade, Australia's interest in the oil and gas resources in the Timor-Sea has been a huge obstacle to defining our maritime boundary. Today, several oil fields are already dry, Bayu-Undan will be empty within three years, and Australia continues to

receive revenues. One large gas field remains – Greater Sunrise – but we think that the money Australia might take in from this field is far less than the value of other natural resources which are under Australia’s land and sea.

We believe that the recent change in Australian policy toward Timor-Leste will help heal the wounds inflicted on the Timorese people during Australia’s occupation of Timor-Leste’s maritime sovereignty. We think that this recovery will happen when Australia approaches the current maritime boundary negotiation with an open heart, with good will, and in compliance with the principles of international law.

Recommendations

In closing, we would like to suggest some specific recommendations to the Australian government:

1. Australia should respect Timor-Leste as a sovereign state, the same as other nations.
2. Australia should consider Timor-Leste as a neighbour and a partner, not as a potential problem or adversary.
3. Australia should accept the median line principle for defining the Australia-Timor-Leste maritime boundary.
4. Australia should reverse its withdrawal from maritime boundary dispute resolution mechanisms under ICJ and UNCLOS, and enter into binding arbitration by an impartial third party.

This concludes our submission, and we are always ready to respond to questions or provide additional information in relation to the issues discussed above. We would also appreciate the opportunity to testify before your Committee in person.

This submission has been authorized by our organization, including for publication.

Written by:

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