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Joint Standing Committee on Treaties

Certain Maritime Arrangements - Timor-Leste

Position Statement

This submission is to support the amendment of the CMATS Treaty such that the provisions listed in Article 12(4) of the Treaty will not survive termination of the Treaty pursuant to Article 12(2) and so the proposed treaty action would enter into force on 10 April 2017, being the date that the CMATS Treaty is no longer in force.

This is a step in the process of the Governments of Timor-Leste and Australia negotiating maritime boundaries under the auspices of the Conciliation Commission to which they have both confirmed their commitment.

Reasons for Supporting this Action

1. Agreement of the Governments of Timor Leste and Australia

The Governments of both the Democratic Republic of Timor-Leste and Australia have reached a shared understanding of the legal effects of the termination of the CMATS Treaty and have agreed that the termination of the CMATS Treaty shall include the termination of Article 12(4) of that Treaty so that no provision of the Treaty will survive termination.

2. Timor Leste's Economic Need

While the 2002 Timor Sea Treaty established the Joint Petroleum Development Area (JPDA) to enable petroleum development in an area of the Timor Sea claimed by both Australia and Timor-Leste, it apportioned 90 per cent of the petroleum resources in the JPDA to Timor-Leste and 10 per cent to Australia. It established a Joint Commission to oversee cooperative management of the resources. While this looks like a deal for Timor Leste, it is not as it is not based on the usually accepted median line being adopted as the boundary between the two countries. Termination of Article 12(4) of the Treaty will assist in opening the way for further negotiations in the future to ensure that boundaries are established in line with international conventions.

A median line agreement will result in more of the revenue from the development of this area goes to Timor Leste whose economic future and the future political stability of the country depends on it generating economic benefit for its fast growing & young population (Over half the population is under the age of 19 years)¹, a high proportion of whom are currently underemployed or unemployed and have few job prospects. This could be a source of future political instability for Timor Leste.

¹ Timor-Leste Strategic Development Plan 2011 – 2030 p.9

Greater revenue from royalties from the oil & gas fields in the Timor Sea will assist Timor Leste in being able to develop it's social capital and infrastructure to assist it's economic development from the interest from its Petroleum Wealth Fund, rather than having to use some of the principle as it has been doing in recent years. Developing this infrastructure is taking place in tandem with the country also diversifying it's economic base to develop other industries in line with it's Strategic Development Plan (2011- 2030), (it's agriculture and tourism sectors, as well as the downstream industries in the oil and gas sector)² to provide greater employment opportunities for its young population. .

3. Fairer Share of Royalties to Timor Leste is in Australia's National Interest

International law experts argue that had the current treaty arrangement not been in place, a much fairer share of the royalties from the development of the oil and gas fields in the Timor Sea would have gone to Timor Leste rather than to its more economically developed neighbour, Australia.

In fact, an economically and politically strong and stable Timor Leste is in Australia's national interest given it's proximity to Australia's northern borders and the large investment that Australia has made in it recent development.

4. First Hand Evidence of the Wishes of the Timor Leste People

Having lived for 2 years in Timor Leste, people have told me first hand that they are not asking for handouts, but are working hard, given the opportunity to give their families an education and their children to get a job that will provide a reasonable standard of living for the future.

5. No Cost to Australia of removing this Article

It is also in Australia's national interest as there is no change needed to Australian legislation to give effect to the proposed treaty action and there are no foreseeable financial costs to Australia of compliance with the proposed treaty action.

Conclusion

Removing this article in the treaty is an important step on the path to renegotiating the maritime boundaries between Timor Lest and Australia and give Timor Leste an opportunity of greater economic development and a more stable political future which directly serves Australia's national interest given that the Governments of Timor-Leste and Australia have each confirmed their commitment to negotiate maritime boundaries under the auspices of the Conciliation Commission.

² Timor-Leste Strategic Development Plan 2011 – 2030 p.10