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Submission No:4.....

SUNRISE JOINT VENTURE

**Submission to Joint Standing Committee on Treaties
13 June 2003**

Glossary

IUA	International Unitisation Agreement
JPDA	Joint Petroleum Development Area
JVP	Joint Venture Participant
LNG	Liquefied Natural Gas
Project	The development of the Greater Sunrise reservoirs
TST	Timor Sea Treaty

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1. Executive Summary

The Sunrise Joint Venture Participants (JVPs) support ratification by the Australian Government and ratification by the Government of Timor-Leste of the International Unitisation Agreement (IUA) and its entry into force.

The development of Greater Sunrise will deliver significant revenue and export benefits to the countries of Australia and Timor-Leste.

In Report 49 on the Timor Sea Treaty, dated November 2002, the Joint Standing Committee, in recommendation No.2, supported the conclusion of an IUA.

The JVPs require the ratification and bringing into force of the IUA as soon as possible to support the marketing of Sunrise gas in the highly competitive international marketplace. Only through successful gas marketing efforts will Sunrise be developed.

2. The Sunrise Joint Venture

The Sunrise and Troubadour Fields, collectively known as Greater Sunrise, comprises 2 titles located to the east of the Joint Petroleum Development Area (JPDA) and 2 Production Sharing Contracts (PSCs) located within the JPDA:

- JPDA 03 -19
 - JPDA 03 -20
- } representing the 20.1% of Greater Sunrise within the JPDA
- NT/RL2
 - NT/P55
- } representing the 79.9% of Greater Sunrise outside the JPDA

The JVPs have concluded a commercial unitisation and the unitised interests in Greater Sunrise are:

- Woodside group of companies 33.34% (and Operator)
- ConocoPhillips group of companies 30.00%
- Royal Dutch/Shell group of companies .. 26.66%
- Osaka Gas group of companies 10.00%

3. Timor Sea Treaty and IUA

3.1. The Timor Sea Treaty

Article 9 of the Timor Sea Treaty (TST) states:

"(a) Any reservoir of petroleum that extends across the boundary of the JPDA shall be treated as a single entity for management and development purposes."

"(b) Australia and East Timor shall work expeditiously and in good faith to reach agreement on the manner in which the deposit will be most effectively exploited and on the equitable sharing of the benefits arising from such exploitation."

The TST contemplates that there will be an agreement between the countries regarding development and that such agreement will be reached as soon as

possible. Annex E of the TST further outlines some aspects of an agreement on unitisation and the IUA gives proper and full effect to these requirements.

3.2. Report 49 on the Timor Sea Treaty, dated November 2002

In recommendation No.2, the Committee recommended that the Government concludes the IUA on or before the date on which the TST is ratified and noted that such action would serve the best interests of both nations.

The IUA was signed in Dili on 6th March 2003 and the TST came into force on 2nd April 2003.

It remains for the Government to ratify the IUA and for both nations to bring the IUA into force to give effect to the recommendation and to complete the obligations of Australia and Timor-Leste referred to in the TST at Article 9 and Annex E.

4. IUA is a Prerequisite for Further Development of Sunrise

4.1. Value of the Project

The Sunrise Gas Project would generate substantial taxation revenues over a 30 - 40 year period for Australia and Timor-Leste. It would help maintain Australia as an important participant in global Liquefied Natural Gas (LNG) trade.

In particular, it would have a material impact on the fortunes of Timor-Leste. Timor-Leste is a relatively small and poor nation of some 800,000 people and a GDP of US\$478 per capita (2001 data).

4.2. Status of the Project

To date, the JVPs have spent over A\$200 million on progressing and developing the Project.

During the latter part of 2002, the JVPs concluded a study of potential developments. The JVPs' understanding of the field, its reserves and development options are mature and there are no identified technical impediments to advancing the Project to the next stage of development.

The JVPs concluded that three major focus areas of the Project must be resolved before the Project could advance to the next stage of development:

- Securing ratification of the Timor Sea Treaty and an IUA which supports gas marketing and further investment by the JVPs in progressing Greater Sunrise development;
- Finalising Joint Venture commercial agreements;
- Securing gas customers in the Asia-Pacific region.

Ratification of the IUA will resolve the first of these areas.

4.3. Marketing Activities

Sunrise gas would be sold to Asia-Pacific customers as Liquefied Natural Gas (LNG). The LNG market environment is extremely competitive, with supply from existing and potential LNG projects significantly exceeding the expected demand of LNG customers, over the 2005 to 2015 period.

LNG customers have always considered 'security of supply' to be an important factor influencing their purchasing decision. Recent world events have served to heighten customers' concerns with regard to the security and stability of their energy sources. LNG projects, with a stable regulatory regime and supported by a clearly defined legal framework, possess a competitive advantage over LNG projects with either an unstable regulatory regime, or a poorly defined legal framework.

Marketing success is key to enabling the development of the Sunrise Gas Project. It will be difficult to favourably differentiate the Sunrise Gas Project against competing LNG projects without a stable regulatory regime and a defined legal framework that is clearly demonstrable to LNG customers.

Ratification of the IUA plays an important role in enhancing the effectiveness of the LNG marketing activities, so enabling the earliest development of the gas resource and the achievement of the highest value for the LNG sold.

5. Consultation on the IUA

The IUA is an agreement between Australia and Timor-Leste. The JVPs were not a direct party to the negotiations. However, during negotiations between Australia and Timor-Leste on the IUA, the JVPs were kept informed on the progress of the negotiations and the outstanding issues. The JVPs were also given the opportunity to discuss their key requirements with Australia and Timor-Leste and to review and comment on early versions of the IUA text.

6. Key Requirements of the IUA

The JVPs seek to achieve fiscal and regulatory stability and certainty.

The key requirements considered necessary to be addressed in the IUA are summarised below.

- ***JVPs to be kept indifferent to a permanent delimitation of the seabed***

The JVPs were concerned that a final sea-bed delimitation between Australia and Timor-Leste should not result in a change in the fiscal conditions affecting the Project.

Article 27(3) states that, in the event of permanent delimitation of the seabed, petroleum activities "*shall continue under terms equivalent to those in place under this Agreement*".

- ***Fiscal certainty and stability***

The JVPs desired to ensure that the IUA contributed to achieving fiscal certainty and stability with regard to that share of Sunrise petroleum attributed to the JPDA.

Issues such as transfer of title to the petroleum, point of sale, valuation point, valuation of petroleum, are defined in Articles 15 and 16. In circumstances where the commercial arrangements are considered not to be arm's length transactions, Annex III provides clarity regarding petroleum valuation principles.

- ***Jurisdictional issues***

Article 4 of the IUA confirms that Australian legislation applies to activities within the part of the Unit Area to the east of the JPDA.

In Article 9, the IUA stipulates how the Regulatory Authorities (defined in Article 1(k)) shall govern and administer activities in the Sunrise Unit Area, whilst the approval process for the Development Plan is explained in Article 12.

- ***Practical provisions for redetermination***

Annex E under Article 9 of the TST states that production shall be distributed on the basis that 20.1% is attributed to the JPDA and 79.9% is attributed to Australia. It also permits review of this formula and alteration by agreement.

Article 8 of the IUA explains the circumstances under which a technical redetermination may occur.

It is the expectation of the JVPs that the government of Australia would consult with the JVPs with regard to any redetermination between Australia and Timor-Leste.

7. Future Actions Under the IUA

The JVPs note that, in the future, there are a number of possible actions that could be taken by Government with respect to the IUA. For example, actions regarding the termination, extension or variation of the IUA, or actions regarding the reallocation of the Sunrise reservoir. These actions could have a direct impact on the interests of the JVPs.

The JVPs are not parties to the IUA, but they are reliant on the IUA as one significant contributor to legal and fiscal certainty and stability for the Sunrise Project. If Government were to consider any action with respect to the IUA that has the potential to impact on the Project, the JVPs expect that the Government would consult with the JVPs prior to taking such action and would in all cases have due regard to the legitimate interests of the JVPs.

8. Actions required by the Joint Standing Committee

In order to allow the Sunrise Project to progress and maintain its schedule for development through assisting in meeting the JVPs requirements for fiscal and regulatory stability and certainty, we request that the Committee recommends the earliest ratification of the IUA, as contemplated by Recommendation No.2 of Report 49 on the Timor Sea Treaty, November 2002.

The JVPs further request that, should Government contemplate any action with respect to the IUA at any time in the future, the Committee recommends that the Government must consult with the JVPs and will have due regard to the legitimate interests of the JVPs.