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AID, TRADE AND OIL: AUSTRALIA'S SECOND BETRAYAL OF EAST TIMOR

Tim Anderson

Having abandoned the East Timorese people to invasion and genocide for a quarter of a century, a bewildered Australian Government was forced into military intervention in late 1999, just as that little nation began its final race towards independence. Though civil solidarity had grown over many years, state intervention in support of the East Timorese was a very last minute affair. Informed observers note that there were joint US-Indonesian military exercises just days before the August 1999 referendum (Chomsky 2002). But the Indonesian Army (TNI)-instigated violence of September 1999 led to an international outcry that forced decisions at that year's APEC meeting. By the end of 1999 Australia's apparent turnaround was complete, with Australian troops leading an international force to take over from the TNI, and to subdue the TNI-backed militias; and with Australian participation in UN peacekeeping and multilateral aid efforts, help construct an East Timorese nation. By 2003 the Australian Ambassador to East Timor felt able to claim that "East Timor has no better friend than Australia" (Foley 2003).

However, the postcolonial friendship has been undermined by Australian opportunism over East Timor's oil and gas resources. Australia has betrayed the people of East Timor again, by wearing the clothes of an aid donor and benefactor, yet taking most of its little neighbour's most valuable assets. This paper will explain the basic economic elements of the Australian-East Timorese relationship, since 1999. It will look at the aid, trade and investment relationship, the question of military aid, then link these elements to the 'resource sharing' agreements which now apply to the oil and gas reserves of the Timor Sea. It concludes with an

estimate of net resource flows, created by this new 'aid, trade and oil' relationship. In summary, Australia is set to take about ten-times the resources it has contributed to East Timor, largely because of a coerced and grossly unfair oil deal, and because of Australia's refusal to engage in a timely negotiation of maritime boundaries.

Aid, Trade and Investment

In 2000 Australia committed A\$150 million over four years (2000-01 to 2003-04) in development assistance funds for East Timor (Downer 2003). In mid 2003 Australia also announced a zero tariff trade preference deal for East Timor (Vaile 2003). On the face of it, these appear the generous acts of a good neighbour. Closer scrutiny shows otherwise.

Firstly, Australia has been attempting to revise its awful past record with East Timor. This article does not have the space to do so, but others (eg. Aarons and Domm 1992; Pilger 1994; Tanter *et al* 2001) have written at length about the betrayal from 1975 onwards, when successive Australian Governments conspired with the Indonesian Government to annex East Timor and deny the people their right to self-determination. When East Timor's move to independence became clear, the Australian Government rapidly revised its 'incorporation' language and claimed to have:

provided assistance to the people of East Timor since the late 1970s. The focus has been on poverty alleviation through the provision of assistance in areas of health and water supply, rural development, education and training (AusAID 2001).

By any account the aid targeted for East Timor during the Indonesian occupation was minimal. During the 1990s AusAID (2001) lists annual allocations of between half a million and four million Australian dollars. This aid increased in response to the renewed Australian and international criticism that followed exposure of the 1991 Dili massacre, where over 200 young people were murdered by Indonesian troops, following a funeral which turned into an independence rally (see eg. Pilger 1994).

Stung by the widespread criticism of Australia's collaborative role in the Indonesian occupation of East Timor (including the sharing of East Timor's oil assets with the Indonesian Government), Labor's Foreign Affairs Minister Gareth Evans, on the one hand, called the Dili massacre an "aberration" (Pilger 1994), but on the other revived a small scale aid program. According to former AusAID staffer Lansell Taudevin, AusAID projects in East Timor in the 1990s "reflected Jakarta's preferences, not East Timor's requests". For example when Bishop Carlos Belo called for education and reconciliation programs, AusAID acted on Jakarta's recommendations for agriculture and veterinary assistance programs. Nevertheless, the AusAID presence was appreciated by the East Timorese as an important source of contact with the outside world (Taudevin in LHB 2002).

Australia's aid program expanded and diversified from 1999 onwards, in the transition period to independence. At about A\$40 million per year, AusAID put money into the repatriation of refugees (in West Timor), emergency services such as transport, water and food, the rebuilding of schools, some health services and government support (AusAID 2001a). Australia helped build the new East Timorese Parliament, and provided project funding for a number of Australian non-government development organisations. In the 1999-2002 transition period, AusAID was joined in East Timor by a huge range of aid organisations, including JICA (the Japanese agency), USAID (the US agency) and Portuguese, Canadian, Irish, Norwegian and European Union agencies.

Responses to AusAID's wide range of projects was mixed. Some local participants in AusAID funded projects (eg. water and peace-building projects) spoke well of the trust and flexibility in the projects. AusAID assistance for the new Customs Service was praised. Others (eg. one orphanage) thought that Australian soldiers had been more helpful than AusAID (La'o Hamutuk 2002: 4-5). Some AusAID funded NGO projects (eg. assistance to NGO Forum) were praised. The major themes of criticism of AusAID, drawn out by a reconstruction monitoring group, were that (i) it did not allow non-Australian contractors (all AusAID contractors must "carry on business in Australia or New Zealand" - AusAID 2003), (ii) AusAID officials were inaccessible (behind barbed wire and, after September 2002, machine guns and sandbags at the

Australian Embassy), and (iii) AusAID projects had little transparency or public accountability, because of 'commercial in confidence' considerations attached to the mostly private contracted projects (La'o Hamutuk 2002: 4-5).

A small part of Australia's aid (perhaps 10%) passed through the Trust Fund for East Timor (TFET), a fund administered by the World Bank which kept a very tight, neo-liberal control on developments. In the transition period (1999-2002) the World Bank claimed that TFET activities were committed to "East Timorese leadership and participation" (World Bank 2000-2001). However World Bank teams (with Australian involvement and support) often rejected East Timorese proposals for use of the donated funds. For example, the World Bank's Appraisal for an US\$18 million Agriculture Rehabilitation Project rejected East Timorese proposals for public sector involvement in "the provision of research, extension and input supply services" because, it was claimed, "such public sector involvement has not proved successful elsewhere; and the anticipated government fiscal resources would not be able to afford such a burden". For these reasons the World Bank team demanded that the Pilot Agricultural Service Centres, publicly funded by TFET, must be privatised (World Bank 2000: 14). The Bank's Appraisal for the Agriculture Rehabilitation Project also rejected East Timorese proposals for a public abattoir and a public grain silo, noting that this rejection was "possibly controversial" and that "East Timorese counterparts may not appreciate the lack of public sector command and control structures and activities and may not support the Project" (World Bank 2000: 21).

Financial assistance (all grants, no loans were involved) from the World Bank and AusAID gave the Australian Government considerable leverage over East Timor's economic policy, in particular to keep open the opportunities for private foreign investment, and to prevent the social regulation of that investment. Australian companies have been heavily involved in construction and a range of services (transport, hospitality, tourism), and enjoy the benefit of there not yet being a minimum wage or any real corporate regulation.

In July 2003 (in the lead up to a WTO ministerial meeting) the Australian Government announced that it would abolish all tariffs and quotas on

imports from the world's 49 least developed nations, and from East Timor. This was said to be "generous preferential market access .. [which] will help the poorest to increase their exports and living standards" (Vaile 2003). However it meant almost nothing, in practical terms, to East Timor. Australian exports to East Timor in 2002-03 were A\$84 million (a wide range of products), while imports from East Timor were less than A\$1 million (DFAT 2003). East Timor's trade is insignificant now and for the future. Virtually none of its coffee (the major export, but still very small scale) goes to Australia, and its future export earners are oil and tourism, neither of which benefit from zero tariffs. Not only is the Australian announcement an illusory 'preference', it may provide leverage for Australia to demand that East Timor also abolishes (or rather, does not impose) tariffs on the substantial Australian imports. This 'preference' for poor countries may end up as a clever business move, by Australia. Tariffs are a much more convenient measure of tax and industry support for poor countries, which generally can't afford the expensive domestic subsidies and infrastructure inducements that are common in wealthier countries.

The Question of Military Aid

Military expenditures are generally kept separate from development assistance budgets, for the very good reason that military deployments, even when they purport to assist another country, always represent the assertion of the national and strategic interest of the 'donor' country. This was certainly the case with Australian military deployments in East Timor. While Australian popular sentiment demanded an intervention in solidarity with the East Timorese people (who in 1999 were experiencing massacre and dislocation), the intervention also represented a considered step of 'forward defence' right up to Australia's most sensitive border, that with Indonesia. Although there was no direct military confrontation (as the Indonesian withdrawal had been negotiated), Australian troops entered a power vacuum, with the aim of stabilising and asserting control over the entire political transition.

In this context - and even though the Australian military role was clearly supported by the vast majority of East Timorese - it is doubtful that any

military expenditure in East Timor by Australia can be regarded as a form of 'aid', or resource transfer.

Even if military expenditure were considered as 'aid', the calculation of it is fraught with difficulties. The Australian Government assertion that its Peace Keeping Force soldiers cost A\$500-600 million per year, down from \$1 billion in 2000-2001 (*Australian* 2003), is misleading. Firstly, much of this expenditure involves the hiring and equipping of troops who would be retained with or without the East Timorese operation. This includes the long planned two new battalions, added in 1999 (Scheiner 2003a and Australian Treasury 2003). Charlie Scheiner of Lao Hamutuk questions the high figure placed on Australian troop cost, noting that there have been only about 1000 Australian soldiers in East Timor at any given time since 2000 (Scheiner 2003).

Secondly, the Australian Government (like other participating governments) was reimbursed for its contributions of troops and equipment to the UN Peace Keeping Forces (PKF), the main element of its military operations, after the 1999-2000 Interfet operation (a pre-UN operation, led by Australia). Total UNTAET allocations for East Timor from 2000-2001 were US\$592 million, with \$230 million of that for the PKF (UN GA 2000: Annex 1). However, while Australia in 2003 contributes about one-eighth of PKF troops (their role is due to end in 2004) it claims to be receiving only about one tenth of their cost in UN reimbursements (and therefore only about one twentieth of UN PKF allocations). The 2003 reimbursement was said to be A\$23 million, revised down from A\$76 million. It is not clear why the reimbursement is this low.

A fuller calculation of the fiscal implications of the military contribution *might* go back to Australia's contributions to the UN, for its peace keeping operations around the world, and then set this against the UN PKF reimbursements. But equally, a fuller calculation might also look at past expenditures on support for the Indonesian military - US\$40 million in 1999 (La'o Hamutuk 2002: 6) - and *deduct* this from the East Timorese contribution. But really, this would be a pointless exercise, for the methodological concern outlined at the start. Even Australia's separate Defence Force Cooperation Program, now costing about US\$4.9 million per year (La'o Hamutuk 2002: 7), to help train East Timor's new

Defence Forces, cannot properly be considered 'aid' or development assistance. Australia has an ongoing strategic interest of its own for maintaining a military presence on the Indonesian border, and in the Timor Sea.

Division of Revenue from Timor Sea Oil and Gas

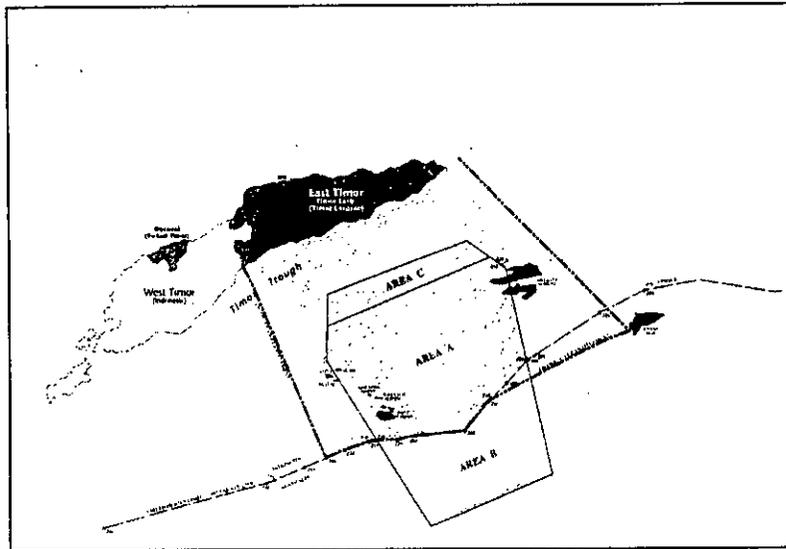
The major economic relationship between Australia and East Timor is neither aid nor trade, but the division of revenue under Timor Sea oil and gas agreements. Herein lies both the major source of economic conflict and the major promise for East Timor. Prime Minister Mari Alkatiri called Timor Sea oil and gas revenue East Timor's "passport from poverty" (Alkatiri 2002). Oil and gas revenue is seen as the means to construct schools, hospitals and roads, and to generally give East Timor a chance at moving out of bare subsistence and the backwaters of development. However East Timorese leaders and its civil society organisations have been bitterly upset and appalled over Australia's opportunistic behaviour in the oil and gas agreements.

From Australia's 1991 agreement with Indonesia to its 2002 agreements with East Timor, revenue sharing has been based on a formula that allows the developing company (the major companies are Shell, Woodside and Conoco Phillips) to recover its costs and then share profits with the two governments. Taxes are rationalised, and revenue after costs is split 50/50 between the combined governments and the companies. (There is some pre-production taxation, but the bulk of the revenue comes from the after-costs split.) The combined government share is then split between governments according to a formula based on (i) the boundaries of a 'resource sharing' zone (as maritime boundaries have not yet been decided), and (ii) a revenue sharing formula within that 'resource sharing' zone.

The 1991 'Timor Gap Treaty', between Australia and Indonesia (signed under bitter protest from the East Timorese) recognised the 'Indonesian province of East Timor', and set up a 'Zone of Cooperation' with three areas, the main one being Zone A, where revenues were to be shared 50/50 between the two countries. The Timor Sea Treaty (2002) between

East Timor and Australia, signed on East Timor's independence day (but without the important lateral seabed boundary disputes resolved), creates a new Ministerial Council and a Joint Commission (replacing the old Joint Authority). It preserves the company contracts set up under the 1991 treaty, and provides a framework for new contracts.

Map 1: International Law Boundary



This map shows the Timor Gap Treaty's (1991) three part 'Zone of Cooperation', with the East Timorese view of a likely UNCLoS view on East Timor's maritime boundaries superimposed - the dark lines. In this view, ALL of the Greater Sunrise Field would be in East Timorese waters. According to McKee (2002) a 'minimum EEZ entitlement' would still leave East Timor with 80% of Greater Sunrise, instead of current 18%. The new JPDA (Joint Petroleum Development Area) in the Timor Sea Treaty (2002) basically replicates the old 'Area A' of Australia and Indonesia's 1991 'zone of cooperation'. And while the 2002 Treaty still has Australia capturing 10% of revenues from this area (down from 50% under the 1991 treaty), the entire JPDA is in East Timorese waters, as the line between Zone A and B is the median line (UNCLoS border) between the two countries.

The agreement struck in July 2001 (negotiations involved US diplomat Peter Galbraith, acting on behalf of the UN's Transitional Authority in East Timor) was seen as interim by the East Timorese Transitional Administration, but rather more stable by the Australian Government. This agreement sidestepped the question of new maritime boundaries, and maintained the central shared 'zone', set up by the 1991 Timor Gap agreement. But it replaced the Indonesian-Australian 50/50 split of royalties and taxes, with an East Timorese-Australian 90/10 split. At first glance, this appeared to be a fair deal for the East Timorese, even though the entirety of the 'shared' zone would be in East Timor's maritime territory, under post 1980s UNCLOS rules (which make 'equidistance' a means of settling disputes based on overlapping 200 nautical mile exclusive economic zones). The Government of East Timor appeared willing to give up this 10% share, in exchange for an Australian military presence on its southern coast, acting as something of an ongoing security guarantor.

The boundaries of the JPDA include the whole of the large Bayu Undan field, but (because of the limited lateral boundaries) only 20% of the large eastern Greater Sunrise field and none of the western Laminaria/Corralina fields. A sub-agreement on 'unitisation' (for tax and revenue purposes) of the Greater Sunrise field was also drafted, in conjunction with the 2002 Timor Sea Treaty. The new Treaty therefore adjusts revenues from the old Zone A in East Timor's favour, but maintains lateral boundaries unfavourable to east Timor. Several weeks before East Timor's independence day (20 May 2002), and the signing of the Timor Sea Treaty, Australia unilaterally withdrew from the mechanisms designed to resolve territorial disputes - the International Court of Justice (ICJ) and the International Tribunal on the Law of the Sea (ITLOS) (ETAN 2003). East Timor decided not to contest these decisions, and not to take Australia to the ICJ. This was controversial in East Timor, but seemed based on the RDTL's preference to pursue diplomatic channels with Australia, combined with East Timor's questionable ability to file a complaint, not yet being a member of the International Court of Justice nor a signatory to the UN's Convention on the Law of the Sea (UNCLOS).

The revenue from the Timor Sea oil fields will be immense, but exploitation of these fields will only last a few decades. So the pace of maritime boundary negotiations has critical fiscal implications. The Australian Government has been dragging its heels.

Phillips Petroleum, developer of the Bayu Undan field, says that it contains 400 million barrels of condensate and LPG, and 3.4 trillion cubic feet of natural gas. Production would commence in 2004 and peak at about 110,000 barrels per day of condensate and LPG (Phillips Petroleum in JSCOT 2002: 26). Following the 90/10 split under the Timor Sea Treaty 2002, the royalties and taxation revenue flowing to East Timor would amount to a total of US\$2.5 to 3 billion, over about 20 years. East Timor would receive about \$US15 million in 2004, but this would rapidly rise and revenue would peak at about \$US300 million in 2013 (Mari Alkatiri in JSCOT 2002: 26). There are currently about 60 East Timorese jobs on the oil rigs (Nazroo in JSCOT 2002: 26). Australia's revenue would be about \$A2 billion over the life of the project, but this will be supplemented by hundreds of jobs and several billion more in benefits, as a Darwin based LPG-processing plant is now under construction (JSCOT 2002: 27-29).

The Greater Sunrise field, to be developed by Shell and Woodside, is said to contain about 8 trillion cubic feet of gas and about 300 million barrels of condensate. Under the 20/80 split of the JPDA boundaries, this could return about A\$400 million a year to Australia and \$A100 million a year to East Timor, after production commences in 2008 (JSCOT 2002: 28-30). This is the major bone of contention. The Government of East Timor claims that, with proper maritime boundaries, the whole of the Greater Sunrise field would be in East Timor's territorial waters (see Map). McKee (2002) agrees that a 'possible' EEZ entitlement would give East Timor revenues from the entire Greater Sunrise field. However he adds that even a 'minimum EEZ entitlement' would give East Timor 80% of the field, instead of the current 18% (90% of 20%). On either view, the entirety of the Laminaria/Corralina fields would also be in East Timor's territory. Total combined revenue (in current dollars) from Laminaria/Corralina and Greater Sunrise is likely to be US\$2 billion (over 2000-2012) and US\$36 billion (over 2008-2050), respectively (McKee 2002). Under the current arrangements, Australia lays claim to

US\$30 of that US\$38 billion (McKee 2002). These amounts dwarf any aid moneys Australia has put into East Timor.

Table 1: East Timor (RDTL) - Aggregates and Resource Flows, US\$m

| | 2001 | 2002 | 2003 | 2004 | 2005 | Projections: | | | | |
|---|------|------|------|------|------|--------------|------|------|------|------|
| | | | | | | 2006 | 2007 | 2008 | 2009 | 2010 |
| RDTL: GDP, trade and budget: | | | | | | | | | | |
| GDP (v) | 389 | 369 | 345 | | | | | | | |
| Imports (i) | 237 | 239 | 235 | | | | | | | |
| Total RDTL revenue (i) | | 44.1 | 59.8 | 56.6 | 87.5 | 109.9 | | | | |
| Total RDTL expenditure (i) | | 70.6 | 79 | 83.1 | 88 | 96 | | | | |
| RDTL: aid and oil revenue: | | | | | | | | | | |
| Donor budget support grants (i) | | 33 | 28 | 27 | n/a | n/a | | | | |
| Australian 'aid' moneys (ii) * | 25.9 | 23 | 26.9 | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| Bayu Undan revenue (i) # | | 26.7 | 42.2 | 38.4 | 68.5 | 89.5 | n/a | n/a | n/a | n/a |
| Greater Sunrise revenue (iii) ## | 0 | 0 | 0 | 0 | 0 | 0 | n/a | n/a | 64 | 64 |
| Revenue taken from RDTL by Australia (ie revenue from RDTL's EEZ): | | | | | | | | | | |
| Greater Sunrise revenue (iii) | 0 | 0 | 0 | 0 | 0 | 0 | n/a | n/a | 256 | 256 |
| Laminaria-Coralina revenue | | | | | | | | | | |
| (iv) | 350 | 250 | 210 | 180 | 150 | 120 | 100 | 50 | 50 | 50 |

Sources: (i) RDTL 2003; (ii) Downer 2003; (iii) JSCOT 2002; (iv) McKee 2002; (v) DFAT 2003 Notes: * Australian 'aid' for East Timor includes budget and non-budget finance (World Bank, various project aid), and for simplicity is converted into US\$ at a rate of 0.64; # Bayu Undan revenue has been delayed by about one year; ## There will be some taxation revenue from Greater Sunrise before 2009

An Australian parliamentary Committee looked into the Timor Sea agreements, but basically supported the Government line. The report of November 2002 simply recommended that "binding action be taken" on the Timor Sea Treaty and that the largely technical "unitisation" of the Greater Sunrise fields be concluded (JSCOT 2002: 1). However in a minority report, Australian Democrat leader and JSCOT committee member Senator Andrew Bartlett said that the terms of the Timor Sea

Treaty seemed to have been extracted from East Timor "through undue pressure", that the Treaty overall did not represent a "fair agreement", particularly as regards the boundaries of the JPDA, and that seabed boundaries should be concluded in accordance with UNCLOS principles and, if necessary, under ICJ jurisdiction (JSCOT 2002: 48-53). In 2000 a earlier Senate Committee inquiry had recommended that "the Australian Government should take into account international law in relation to seabed boundaries". International arbitration would be available for this purpose, if required (Australian Senate 2000: Chapter Four).

After the JSCOT report, in early 2003, several Australian Government ministers in a 'joint media release' announced that '\$50 billion Timor Sea Projects [would] go ahead', stressing the benefits for both East Timor and Australia and the claimed "spirit of cooperation" in which agreements between the two countries had been made (Downer et al 2003). This papered over the acrimony. Australian Greens Senator Bob Brown was one of the few public figures to criticise the deal. Brown had visited East Timor and had spent some time outside official functions with East Timorese community representatives. He drew attention to the pressure that had been placed on PM Alkatiri to sign the Treaty: "the East Timorese have to put on this diplomatic face .. but deep below the surface they're appalled at what's happening" (Brown 2003). He was right. In 2003 nine East Timorese community groups issued a statement saying that:

Timor Leste's independence process is not complete until Australia and Timor-Leste agree on boundaries in the Timor Sea .. [we urge Australia] to negotiate maritime boundaries ... [and] revenues should be held in trust until a interim boundary is agreed to (East Timorese NGOs 2003).

Conclusion

The net result of the Timor Sea oil and gas agreements has been to deliver most of the revenues in East Timor's likely UNCLOS-endorsed maritime territory to the Australian Government. Australia has grabbed almost 60% of East Timor's revenue stream. This act nullifies and

overwhelms any generosity that had been provided through Australia's aid program. While Australian aid to East Timor peaked at US\$27 million annually, the portion of East Timor's oil and gas revenues that Australia has now seized will often exceed US\$250 million annually. Australia is set to take ten times the resources it has contributed to East Timor, because of a grossly unfair oil deal, and because of its refusal to engage in a timely negotiation of maritime boundaries.

The Australian Government initially closed the door to maritime boundary negotiations (Downer 2002), but it has now partly opened that door. Under the pressure of concurrent Indonesian demands to negotiate boundaries (which affect Ashmore Reef and Cartier/Pasir Island), Prime Minister Howard has said that maritime boundary talks with East Timor will begin before the end of 2003. However Australian Foreign Affairs officials warn that "these are complex issues and generally take a reasonable period to sort out" (Wilson 2003). As the oil and gas fields have limited lifetimes, the pace of such negotiations is of critical importance for the future development of East Timor.

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