

Australia spied during resource deal: Dili

Published: May 3, 2013 - 5:34PM

East Timor is seeking to tear up a treaty on the sharing of oil and gas revenues with Australia because it says Australia spied on it during the negotiations.

East Timor has launched a process of arbitration to challenge a 2006 treaty which governs how proceeds are shared from oil and gas fields that straddle the joint development area between the two countries and the Australian continental shelf.

The developing country argues the treaty is invalid because Australia did not conduct 2004 negotiations in good faith. Specifically, East Timor alleges Australia conducted espionage.

In his 2007 book *Shakedown: Australia's Grab for Timor Oil*, Paul Cleary, a former Fairfax Media journalist who was part of East Timor's negotiating team, wrote that the country's then Prime Minister Mari Alkatiri was convinced the Australian Government was spying on them during negotiations in Canberra in September 2004. The East Timor delegation stopped holding meetings in their hotel, fearing rooms were bugged, and dumped their mobile phones because they suspected eavesdropping.

In a joint statement issued on Friday, Foreign Affairs Minister Bob Carr and Attorney General Mark Dreyfus said the spying allegations were not new, and it had been the position of successive Australian Governments to neither confirm nor deny them.

But the statement said Australia had "always conducted itself in a professional manner in diplomatic negotiations" and had acted "in good faith."

Australia said it considered that the treaty – called the Treaty on Certain Maritime Arrangements in the Timor Sea – was valid and remained in force.

The treaty provides for revenue from the Greater Sunrise fields, which are situated 450km north-west of Darwin and 150km south-east of East Timor, to be shared equally between the two countries, and prohibits both countries from discussing maritime boundaries for 50 years.

Don Rothwell, a professor of international law at the Australian National University, said the revenue split had long been a source of tension between the two countries, with East Timor believing the arrangement was too favourable to Australia, and seeking a permanent maritime boundary, which would probably place the entire Greater Sunrise field within East Timor's maritime boundary.

East Timor has initiated arbitration under the 2002 Timor Sea Treaty. Professor Rothwell said there was a legal question about whether a dispute over the 2006 treaty could be resolved under the arbitration process set out in the 2002 treaty. If arbitration proceeded the matter would be decided by a three-member tribunal comprising a nominee of each of Australia and East Timor and a national of a third country, who would chair the tribunal.

But he said Australia could refuse to participate in arbitration.

The Australian Government's statement said it was still considering its response. It said the treaties provided certainty for investors and delivered benefits to both countries.

East Timor's ambassador to Australia, Abel Guterres, said: "Timor Leste and Australia are good neighbours and the good relationship and co-operation will go on, despite whatever differences we have."

A spokesman for Woodside, the operator of the Greater Sunrise project, said the company was reviewing the announcement.

"Woodside will continue to engage with both governments to further understand any consequences of the proposed arbitration," the spokesman said.

This story was found at: <http://www.smh.com.au/opinion/political-news/australia-spied-during-resource-deal-dili-20130503-2iy7w.html>

East Timor challenges gas treaty with Australia

Sara Everingham reported this story on [Friday, May 3, 2013 18:34:00](http://mpeghmedia.abc.net.au/news/audio/pm/201305/20130503-pm7-et-treaty.mp3) <http://mpeghmedia.abc.net.au/news/audio/pm/201305/20130503-pm7-et-treaty.mp3>

TIM PALMER: East Timor is going to arbitration and accusing Australia of past espionage in the process, as it seeks to have the treaty governing the split of gas revenue from the Timor Sea declared invalid. In response the Australian Government says neither East Timor's claims about the treaty nor its allegations of espionage during negotiations in 2004, are new. It says the treaty remains in force.

Sara Everingham reports.

SARA EVERINGHAM: East Timor has taken a new step in its long-running push for a better deal from oil and gas resources in the Timor Sea. The Attorney-General Mark Dreyfus says East Timor is seeking to have declared invalid a revenue-sharing treaty. He says East Timor recently notified the Australian Government that it was launching a process of arbitration.

MARK DREYFUS: Timor-Leste notified Australia on 23rd April that it has initiated arbitration under the 2002 Timor Sea treaty of a dispute that relates to the 2006 treaty on certain maritime arrangements in the Timor Sea which is known as CMATS but relates to the validity of the CMATS treaty.

SARA EVERINGHAM: The treaty is used to split revenue from the lucrative Greater Sunrise gas field in the Timor Sea. East Timor has been in a long-running dispute with Australia and the Australian-based company Woodside about how the Greater Sunrise field will be developed.

Mr Dreyfus says East Timor alleges the CMATS treaty is invalid because the negotiations were not fair. He says East Timor alleges that Australia did not negotiate fairly in 2004 by engaging in espionage.

MARK DREYFUS: Well that's the allegation, but in the course of negotiating this treaty back in 2004, Australian officials were aware of confidential information belonging to Timorese negotiating team and we can't comment further on the matter because these issues are going to be dealt with in the course of the arbitration.

SARA EVERINGHAM: Mr Dreyfus says the allegations are not new and he defends Australia's record.

MARK DREYFUS: Australia has always conducted itself in a professional manner in diplomatic negotiations and has conducted those CMATS treaty negotiations in good faith. We consider that the CMATS treaty is valid and that it remains in force.

SARA EVERINGHAM: Donald Rothwell a professor of international law at the Australian National University says East Timor's application for arbitration is a significant development.

DONALD ROTHWELL: Well Australia has over the last 40 years negotiated a range of maritime boundaries with all of Australia's neighbours and if this procedure was to result in arbitration this would be the first time that there's been any formal dispute between Australia and its neighbours over these particular matters.

So it's a significant development because Australia has always tried to settle and resolve its maritime boundaries by way of negotiation but clearly as far as East Timor is concerned a point has been reached where negotiation is not successful and that aspects of this dispute need to be subject to arbitration.

SARA EVERINGHAM: If the arbitration does go ahead how will it be done?

DONALD ROTHWELL: The Timor Sea treaty concluded between Australia and East Timor in 2002 has built into it a mechanism under which a three-person arbitral tribunal would be established and that tribunal would be able to consider first of all whether it has jurisdiction to resolve this dispute and then if it says yes to that it would then look at the merits of the claim that's been brought by East Timor against Australia, it's made quite clear in the Timor Sea treaty that any award handed down by that tribunal would be final and binding upon Australia and East Timor.

SARA EVERINGHAM: Professor Rothwell says it's possible the matter could be resolved within a year. It's not clear whether the Australian Government will be prepared to go through the arbitration. The Federal Attorney-General Mark Dreyfus says the Government is considering its response to East Timor's application.

MARK DREYFUS: Well Australia considers that the treaty is valid and remains in force and that will be the basis on which we go forward.

SARA EVERINGHAM: It's not clear why East Timor is seeking arbitration because it already has the option of cancelling the treaty. That's because so far there's been no agreement on how the Greater Sunrise field in the Timor Sea should be developed.

PM was not able to contact East Timor's government for a comment.

TIM PALMER: Sara Everingham reporting.

FINANCIAL REVIEW

Spy accusations cloud Woodside's Sunrise gas

By Angela Macdonald-Smith, Australian Financial Review, PUBLISHED: 03 May 2013 18:18

Allegations by the East Timor government that Australia engaged in espionage during the negotiations on the treaty over the Sunrise gas field have further clouded the prospects of the Woodside Petroleum-led venture that holds the valuable resource.

While the allegations are not new, the East Timor government has for the first time used them to invoke a formal arbitration process and is arguing that the Sunrise treaty is invalid.

The Australian government was notified by East Timor on April 23 that it had started arbitration, Foreign Affairs Minister Bob Carr and Attorney General Mark Dreyfus said on Friday in a joint statement.

These allegations are not new and it has been the position of successive Australian governments not to confirm or deny such allegations, according to the statement.

Australia considers that the treaty, formally known as the Treaty on Certain Maritime Arrangements in the Timor Sea, or CMATS, is valid and remains in force, the minister said.

Dispute over royalties, FLNG

Under the bilateral CMATS treaty, which dates from 2006, the Australian and East Timor governments agreed on a 50:50 split of royalties from Woodside's Sunrise gas resource. East Timor officials have however argued over the years that East Timor should enjoy a larger share, if not all, of the revenues because under the UN Convention on the Law of the Sea, all the deposit should be within its exclusive economic zone.

In the meantime, the gas field remains undeveloped because the Woodside venture has been unable to reach an agreement with the two governments on the development plan. While the Sunrise partners want to use a floating LNG plant, the East Timor government is adamant an onshore plant must be built on its soil to maximise revenues and jobs.

Cancellation of the Sunrise treaty would be a major setback for Woodside's negotiations to resolve the stalemate and go ahead with the project, which would involve several billion dollars of investment. Shell, ConocoPhillips and Japans Osaka Gas have stakes in Sunrise.

Canberra remains committed to treaty

The East Timorese are understood to be alleging that when the treaty was being negotiated in 2004, the Australian team was aware of information confidential to the East Timorese about their negotiating position. That makes the negotiations unfair and so the terms of the treaty are invalid, they say.

In Fridays statement the Australian government said it remains committed to the Timor Sea treaty framework, including the CMATS treaty, and is considering its response to the notification of arbitration.

Under the arbitration process, which kicked off on April 23, each government has 60 days to appoint an arbitrator. Those two arbitrators will then appoint a third. The three then have six months to make a decision on the case.

In the meantime, a separate arbitration process is already under way between the East Timor government and ConocoPhillips over tax payments from the US oil majors Bayu-Undan venture.