

Spies Like Us: why the Government is still backing Woodside over Timor-Leste - Michael West

Rex Patrick in Michael West 5 April 2024

Two decades after the Howard Government spied on Timor-Leste's seabed boundary negotiating team, for oil company Woodside, the Albanese Government is still fighting against the truth coming out. Reporting on the biggest cover-up in Australia's history, **Rex Patrick** explains why.

DFAT submissions found in the long-running FOI battle reveal how the commercial interests of Australian fossil fuel companies still take precedence.

In March 2002, three months before Timor-Leste (Timor) became an independent state, Australia's then foreign minister, Alexander Downer, withdrew Australia from the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea. He did this to ensure there would be no umpire to go to when Australia rejected Timor's claim for a maritime boundary halfway between the two countries.

On 20 September 2002, the Howard Government awarded an exploration contract for an area partly on Timor's side of the median line. Timor protested.

In November 2002, Mr Downer warned Timor's then Prime Minister Mari Alkatiri that Australia could hold up the flow of gas from the Timor Sea for decades. According to a transcript of the negotiating records, Downer said, "We don't have to exploit the resources. They can stay there for 20, 40, 50 years."

We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics – not a chance.

In December 2002, the Sunrise project partners, Woodside, ConocoPhillips, Shell and Osaka Gas, announced the indefinite delay of the project, an obvious tactic to pressure Timor to accept Mr Downer's demands.

The Howard Government wanted to force Timor, one of the poorest countries in the world, to surrender to Australia most of the revenue from a number of Timor Sea oil and gas fields.

I spy with my greedy eyes

Despite Australia having agreed to negotiate in good faith with Timor, Downer ordered the Australian Secret Intelligence Service (ASIS) to bug Timor's negotiators. ASIS installed listening devices inside Timor's cabinet room under the cover of a foreign aid program, piling cynicism onto callousness.

In 2006, a sea boundary treaty, highly favourable to Australia, was signed by Timor.

Only after former ASIS officer Witness K and his lawyer, Bernard Collaery, blew the whistle did the Timorese understand that the Australian Government had engaged in a conspiracy to defraud them.

The Timorese spent the next decade trying to have the treaty declared invalid, with actions taken in the Permanent Court of Arbitration and the International Court of Justice. Almost a decade after the treaty was signed, Timor-Leste initiated compulsory conciliation proceedings against Australia. Despite Australia unsuccessfully challenging the jurisdiction of the Conciliation Commission, a new treaty was signed in 2018.

The will of Timor

Despite the signing of the new treaty, there's been little progress over the extraction of oil and gas from Greater Sunrise.

Xanana Gusmao, a former independence fighter and heroic figure in Timor, has had a long-standing vision to establish, in association with the development of Greater Sunrise, an onshore petroleum industry on the South Coast.

His vision, known as "Tase Mane", involves building a supply base, refinery, petrochemical industry, and LNG plant on the country's southern plateau. As part of a 2011 Strategic Development Plan (written when Gusmao

was Prime Minister), Tase Mane would be the catalyst for uplifting skills and economic activity across the country and providing long-term economic prosperity.

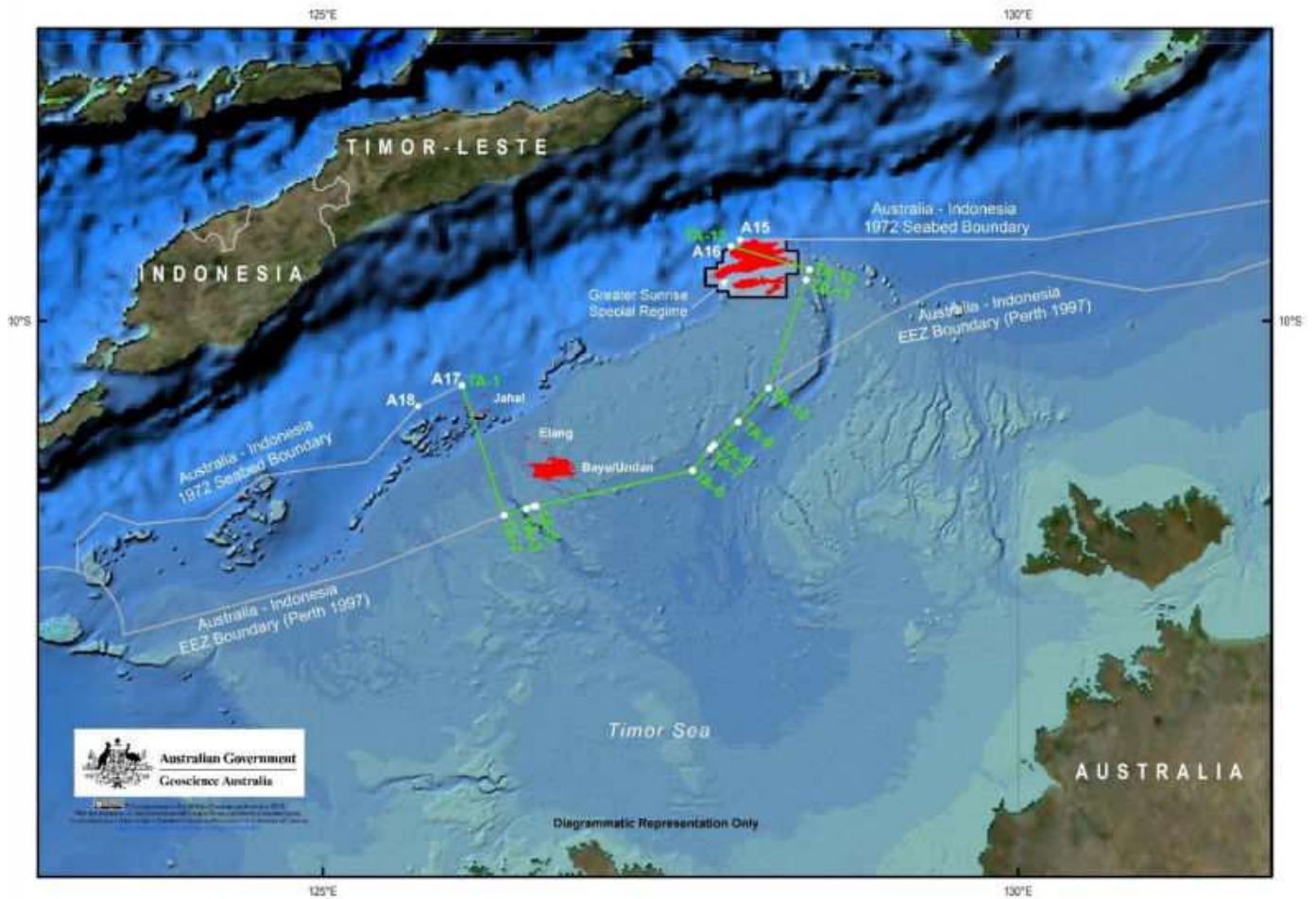


Figure 1 – Greater Sunrise (Source: Geoscience Australia)

As part of the implementation plan for Tase Mane, in 2019, the Timor Government purchased ConocoPhillips’ 30% interest and Shell Australia’s 26.56% interest in the Greater Sunrise Fields, giving ‘Timor Gap’, the national oil company of Timor-Leste, a 56.6% interest in the fields.

The remaining stakeholders are Osaka Gas, at 10% and Woodside, at 33.4%.

Since the signing of the new treaty in 2018, progress on Tase Mane has been slow.

However, renewed impetus to move forward came with the inauguration of a new government in July 2023, headed by Prime Minister Gusmao on his second term in office. He’s pledged publicly he’ll reach a deal in 2024. Accordingly, technical negotiations involving Australia, Timor and the Sunrise Joint Venture partners have been building momentum.

The will of Woodside

There’s just one problem.

Woodside does not agree with the Tase Mane plans and wants Greater Sunrise gas to be processed at the existing Santos LNG plant in Darwin.

Whilst feigning support for the Timorese, with Foreign Minister Penny Wong telling Timor that Australia was “listening carefully to your interest and priorities”, the Albanese Government seems to be backing Woodside.

In 2019, wondering why things were not progressing, I requested under FOI all briefs the Department of Foreign Affairs and Trade (DFAT) had prepared for the Minister for Foreign Affairs in the financial years 2016/2017 through 2018/2019 that discussed oil/gas processing options for Greater Sunrise. I wanted to see if the Australian Government was still hell-bent on processing Timor’s gas back in Darwin.

At the time the Morrison Government refused me access to all documents. In 2022 DFAT revisited the decision and gave some documents to me; media talking points and material that was already available on the internet.

DFAT thwarts FOI ‘progress’

As my FOI has made it through the four-year wait it takes to get to the front of the Information Commissioner’s FOI queue, DFAT’s response to inquiries from the Commissioner has been extraordinary.

Normally, information grows less sensitive over time. But in new submissions made to the Commissioner, DFAT has claimed the opposite.

DFAT has advised the Commissioner that the 2022 revised decision will have to be revisited and that documents which then had an arguable public interest for disclosure

will now have to be bought under an exemption that does not allow public interest to be considered.

They argue that the documents are more sensitive because of “recent developments in Greater Sunrise, and particularly the fact that these negotiations are ongoing.”

DFAT argues that disclosure of the documents will undermine the Australian Government’s “ability to effectively co-operate and have open discussion with third party private enterprises, whose ongoing engagement is critical for the development of Greater Sunrise” and “prejudice the ability of Australian diplomats overseas to foster and maintain effective working relationships with foreign government officials which is a fundamental aspect of the Department’s functions.”

Such exquisite irony. On the twentieth anniversary of ASIS spying on the Timorese negotiating team,

DFAT has suddenly grown a conscience and an understanding of the need for confidentiality in negotiations.

Self-determination v embarrassment

We’d be the first to agree that, from a project management perspective, the processing of Greater Sunrise in Darwin would attract less project risk and be less expensive.

But that completely misses the point.

Timor, a close neighbour, wants to utilise their resources to uplift themselves and become economically independent.

They want to set up their future and we should be assisting them.

We haven’t been kind to Timor going all the way back to World War II when we landed on their shores without invitation, ultimately seeing between 40,000 and 70,000 Timorese killed by the Japanese during the war.

As we later sniffed around, finding oil and gas in their waters, we sought to rob them of it.

Our first approach was to encourage Indonesia to invade Timor in 1975 in the hope of extending the very favourable sea boundary we had with Indonesia across the Timor Gap, making the oil ours. When that didn’t work, we spied on the Timorese to ensure they got the worst possible oil and gas deal.

The 2018 treaty was a reset opportunity that we don’t seem to have embraced. We owe nothing to Woodside and everything to a mistreated Timor-Leste.

Australia has to end the games, stop resisting Tase Mane, admit the bugging took place, stop the secrecy and, indeed, use the project as an opportunity to grow the relationship through technical and project management assistance to them.

Unfortunately, our foreign policy establishment won’t admit to generations of policy failure and commercially compromised diplomacy.

And for all their progressive pretensions, Prime Minister Albanese and Foreign Minister Wong are too craven, too timid, to challenge the DFAT orthodoxy. It seems beyond our leaders to be able to put political decency and our long-term national security ahead of Woodside’s wants.