

# The La'o Hamutuk Bulletin

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*See report on Brazil's assistance to East Timor, page 14.*

## Timor Sea Oil and Gas Update

**M**uch has happened since the end of 2002, when *La'o Hamutuk* last reported on Timor Sea oil and gas. As we've described in past articles (see *La'o Hamutuk Bulletins* Vol. 3, Nos. 4-8), these seabed resources carry much hope, and pose serious dangers, for East Timor's medium- and long-term economic future. The series of articles in this *Bulletin* describe the most important events since then.

On page 11, you will find a glossary explaining technical terms used in this article. Words and phrases underlined in the articles which follow are defined in the glossary.

The *La'o Hamutuk Bulletin* has already reported on the history and the major offshore petroleum deposits between East Timor and Australia, and we begin this series of articles by reviewing that information.

Page 5 relates how Australia blackmailed East Timor to sign an International Unitization Agreement (IUA) for the Greater Sunrise natural gas field, the largest in the region. As soon as East Timor signed that agreement, Australia ratified the Timor Sea Treaty, which has now come into force. Full-scale development of the Bayu-Undan oil and gas project has now begun, and that field will begin producing liquids (liquified petroleum gas and condensate) in less than a year. The project is already providing tax revenues for East Timor, and a few dozen jobs for East Timorese, although hardly any of the investment will be spent here. After assessing the money East Timor can expect from this field over the next few years, we look at smaller oil and gas fields in the area.

The article on page 8 describes the Sunrise International Unitization Agreement, signed in March, and the possible alternatives for developing that field. East Timor views both the Timor Sea Treaty and the Sunrise agreement as interim agreements, which will be replaced if and when East Timor and Australia agree on a maritime boundary between their overlapping Exclusive Economic Zones. However, as described on page 10, Australia has stonewalled the process to negotiate the boundary and has withdrawn from international legal processes that could resolve the dispute.



The Compression, Utilities and Quarters platform for Bayu-Undan was built in South Korea and delivered to the Timor Sea in June 2003.

*(Photo courtesy ConocoPhillips and the TSDA)*

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# Timor Sea Historical Background

East Timor's economic independence depends on the money the new nation can earn by selling its natural resources, especially the petroleum deposits which lie under the Timor Sea between East Timor and Australia. These fields, which contain oil and gas worth more than US\$30 billion, lie closer to East Timor's south coast than to any other land. However, due to a history of colonialism, invasion, occupation, and illegal activities by Indonesia and Australia, East Timor could receive less than half of the revenues it should be entitled to under the principles of the United Nations Convention on the Law of the Sea (UNCLOS).

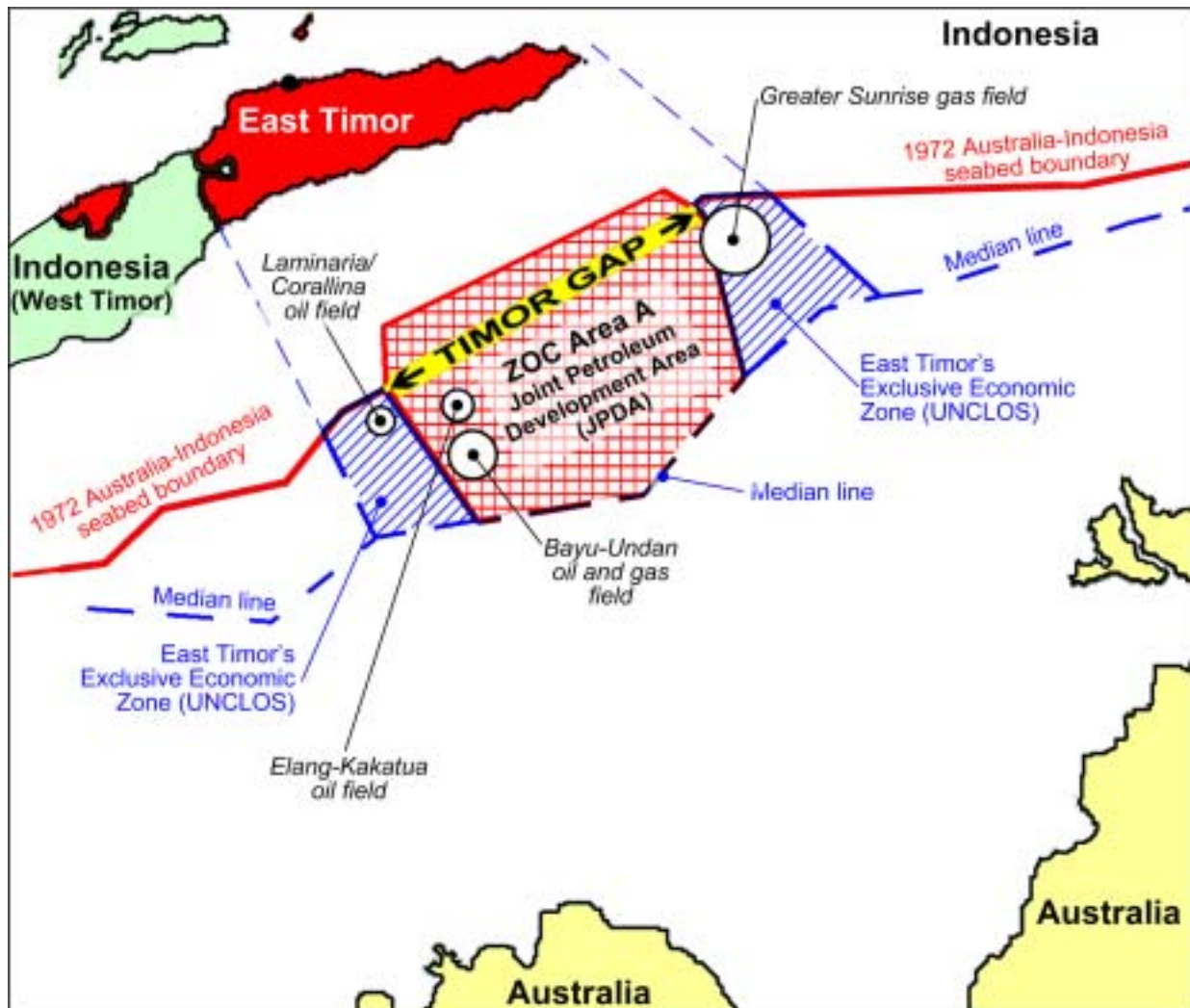
In 1972, Australia and Indonesia signed a seabed boundary treaty based on the now outdated continental shelf principle, establishing a seabed boundary much closer to Indonesia than to Australia. Since Portugal (the colonial ruler of East Timor at that time) refused to participate in the discussions, the boundary was incomplete, resulting in the "Timor Gap" (see map below).

Indonesia invaded East Timor three years later. In 1979, Australia and Indonesia began negotiations which led the 1989 Timor Gap Treaty dividing the seabed resources in the "Gap," giving Australia the largest share in return for Australia's recognition of Indonesia's illegal annexation of East Timor. Rather than complete the boundary line,

the Treaty defined a Zone of Cooperation (ZOC). Within the ZOC's central Area A, resources would be shared equally between Australia and Indonesia. Australia continued to control areas east and west of the ZOC, based on the 1972 agreement with Indonesia, although some of that territory would now belong to East Timor under UNCLOS principles.

Just after the 1991 Santa Cruz massacre, international oil companies began signing contracts with Australia and Indonesia to explore under the Timor Sea, and oil in East Timor's territory was first discovered in early 1994 and extracted in 1998 from the Elang-Kakatua field in ZOC-A. No significant petroleum has been found under ZOC areas B and C. In late 1994 the larger Laminaria-Corallina field, was discovered just west of the ZOC.

Because Indonesia's occupation of East Timor was illegal, the Timor Gap Treaty was also illegal, and Portugal challenged it in the International Court of Justice (ICJ). In 1995 the ICJ ruled that it could not invalidate the treaty because Indonesia did not accept ICJ jurisdiction, but that East Timor had an undeniable right to self-determination. In 1999, that right was finally achieved, and the Timor Gap Treaty evaporated when Indonesia's bloody occupation of East Timor reached its ultimate climax. One month later, Woodside Australian Energy began oil production from the lucrative Laminaria-Corallina oil field.



During the UN Transitional Administration (UNTAET), both the United Nations and East Timor's leadership recognized the importance of undersea petroleum to East Timor's future, and they acted to preserve the oil companies' contracts and continue development, so that East Timor would receive some oil revenues quickly. They also acted to protect Australia's interests, allowing East Timor's southern neighbor to continue to occupy maritime territory ceded to it by Indonesia.

The first UNTAET-Australia agreement, in 2000, continued the terms of the 1989 Timor Gap Treaty but substituted "East Timor" for "Indonesia" throughout the document. The 50-50 division of Zone of Cooperation Area A (now called the Joint Petroleum Development Area) was maintained, and a binational agency (the JPDA Joint Authority) was established, under equal control by UNTAET and Australia, to continue managing the development. The following year, UNTAET and Australia renegotiated the agreement to divide petroleum production in the zone, 90% for East Timor and 10% for Australia, signing the Timor Sea Arrangement in July 2001. Australia thus implicitly

recognized that the JPDA legally belongs in East Timor's Exclusive Economic Zone. However, the Joint Authority remained equally under Dili and Canberra, and was based in Darwin.

In the months prior to independence, this arrangement was transformed into the Timor Sea Treaty between East Timor and Australia, which was signed on 20 May 2002, East Timor's first day as an independent nation. The Timor Sea Treaty continued the 90-10 split, but redefined the Joint Authority as the Timor Sea Designated Authority (TSDA) and gave East Timor two of the three TSDA Commissioners. None of the discussions between UNTAET and Australia covered areas outside the ZOC/JPDA, which has allowed Australia to continue to develop seabed resources that should rightfully belong to East Timor. Although the Timor Sea Treaty and other agreements say they are "without prejudice" to a future maritime boundary settlement (and they become null and void once boundaries are agreed to), there is no incentive for Australia to settle the boundaries, which could end its lucrative maritime occupation, until all the petroleum has been extracted.

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## Boundaries and Petroleum Fields

The map on the previous page shows the Timor Sea, between East Timor and Australia. The dashed lines are median lines, halfway between the coasts of East Timor, Australia and Indonesia. Under current law, based on the United Nations Convention on the Law of the Sea (UNCLOS), this is where maritime boundaries should be drawn when two countries are closer than 400 nautical miles. The striped areas are currently occupied by Australia, but many experts in maritime law believe they should be in East Timor's Exclusive Economic Zone under UNCLOS principles.

The solid line is the 1972 Australia-Indonesia seabed boundary. Most of the petroleum in the Timor Sea lies south of this line and north of the median line, closer to East Timor than to Australia. The cross-hatched area is the Joint Petroleum Development Area, assigned 90% to East Timor and 10% to Australia under the Timor Sea Treaty.

The petroleum fields shown on the map are the most significant for East Timor, although there are also smaller ones. There are other large fields to the south and west, closer to Australia or Indonesia than to East Timor, not shown. All fields on the map would probably belong entirely to East Timor under median line principles:

**Elang-Kakatua** is a small oil field, the first in the JPDA to be discovered and developed. It is operated by ConocoPhillips, and has produced about \$50 million in government revenues, divided between Australia, Indonesia and East Timor. Approximately 90% of its oil has already been extracted. East Timor now receives 90% of Elang-Kakatua's government share of production and taxes.

**Bayu-Undan** is a large gas field within the JPDA, also operated by ConocoPhillips. This field is rich in natural gas liquids, namely liquified petroleum gas (LPG) and condensate. Bayu-Undan construction is now fully underway, following the entry into force of the Timor Sea Treaty. The liquids phase of Bayu-Undan development is expected to bring in about \$1.8 billion in revenues to East Timor from when production starts in early 2004 for the next 20 years. The second phase, piping natural gas to Australia for liquification and export to Japan, will begin in April 2006, yielding \$1.2 billion in revenues to East Timor over the following 17 years. Under current arrangements, East Timor will get 90% of Bayu-Undan's government share of production and taxes.

**Greater Sunrise** contains more than twice as much gas as Bayu-Undan. It lies approximately 20% inside the JPDA and 80% outside, under waters currently occupied by Australia but claimed by East Timor. Woodside Australian Energy, the operator, hopes to begin production around 2009, probably using the world's first floating gas liquification plant, which will be developed and operated by Shell. With the ratification of the Timor Sea Treaty, Sunrise development is now waiting for Australia and East Timor to ratify the International Unitization Agreement (IUA, see below), and there are still many decisions to be made, and no buyers for the gas have yet been identified.

**Laminaria-Corallina** is just outside the JPDA in waters claimed by East Timor and Australia, but closer to East Timor. This oil field, also operated by Woodside, began production in late 1999 and will be exhausted by 2005. This field has generated more than \$1 billion in revenues for Australia, and nothing for East Timor.



The following table shows the estimated energy reserves in the major petroleum fields between Australia and East Timor. It does not include fields which lie closer to Indonesia than to East Timor (such as the Browse Basin and Ashmore-Cartier area), or which are clearly outside East Timor's Exclusive Economic Zone. The table is expressed in millions of barrels of oil equivalent (BOE).

| Oil and Gas Fields in the Timor Sea between East Timor and Australia |                                                                            |                                          |                                            |                |                                      |                                     |
|----------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------|--------------------------------------------|----------------|--------------------------------------|-------------------------------------|
| Field(s)                                                             | Location                                                                   | Estimated reserves (millions of BOE)     | Timor Sea Treaty and Unitization Agreement |                | According to UNCLOS legal principles |                                     |
|                                                                      |                                                                            |                                          | Australia share                            | E. Timor share | Australia share                      | E. Timor share                      |
| Evans Shoal<br>Petrel-Tern<br>Blacktip                               | Australia's side of the median line                                        | 1540                                     | 1540                                       | 0              | 1540                                 | 0                                   |
| Elang-Kakatua<br>Bayu-Undan<br>Chudditch<br>Kuda Tasi & Jahal        | JPDA (East Timor's side of the median line), excluding the IUA             | 1110<br>(including 30 already extracted) | 111                                        | 999            | 0                                    | 1110                                |
| Greater Sunrise                                                      | IUA, East Timor's side of the median line, 20.1% in the JPDA               | 1920                                     | 1573                                       | 347            | 0                                    | 1920                                |
| Laminaria-Corallina<br>Buffalo                                       | East Timor's side of the median line, outside the IUA and west of the JPDA | 270 (including 220 already extracted)    | 270                                        | 0              | 0                                    | 270 (revenue must be redistributed) |
| <b>Total</b>                                                         |                                                                            | <b>4840</b>                              | <b>3494</b>                                | <b>1346</b>    | <b>1540</b>                          | <b>3300</b>                         |

Figures are taken from several sources; they approximate the situation at the end of 2002. The table shows that 32% of the petroleum resources in the Timor Sea are on Australia's side of the median line, while 68% are on East Timor's side. If we look at East Timor's rightful 68% share, we can see that:

- Under the Timor Sea Treaty, East Timor gives Australia 10% of the JPDA (excluding Sunrise), or 3% of East Timor's total Timor Sea resource share.
- Under the International Unitization Agreement, East Timor gives Australia 82% of Greater Sunrise, amounting to 48% of East Timor's total resources.
- By refusing to negotiate a boundary, Australia is taking an additional 8% of East Timor's petroleum, west of the JPDA but which would belong to East Timor under a median line boundary.
- Together, the two agreements transfer nearly two billion BOE from East Timor to Australia, resulting in East Timor's losing approximately 59% of its petroleum reserves. Although not shown in the table, Australia has more than four times as much as the total Timor Sea petroleum reserves in other areas.



The Floating Storage and Offloading facility "Liberdade" being launched in September 2002 from South Korea. This ship will be permanently anchored at Bayu-Undan, loading condensate and other natural gas liquids on to tankers for the first phase of the project (see page 6).

(Photo courtesy ConocoPhillips and the TSDA)

# Australia Blackmails East Timor

*La'o Hamutuk* last wrote about the Timor Sea Treaty in May 2002, just before the Prime Ministers of East Timor and Australia signed it. Eleven months later, following ratification by both countries, the Treaty came into force. The reasons for the delay are instructive, and could indicate a pattern for future negotiations and relationships.

The Timor Sea Treaty is essential for the Bayu-Undan project to be developed, and that field will provide East Timor with significant income in about three years, sooner than any other large field. Since Australia has many other sources of income and receives only 10% of Bayu-Undan revenues, Bayu-Undan is not as important to them as it is to East Timor.

The larger Greater Sunrise gas field, however, is very important to Australia. Approximately one-fifth of this field is within the JPDA, and the remainder is outside. When East Timor and Australia signed the Timor Sea Treaty, they agreed to negotiate an International Unitization Agreement (IUA, see page 8) for the Sunrise field, attributing 20.1% of it to the JPDA and the rest to Australia.

For Australia, Sunrise upstream is therefore worth more than ten times as much as Bayu-Undan, although Australia will receive downstream revenues from both fields. Under the current agreements, East Timor receives only one-fourth as much from Sunrise as from Bayu-Undan. So while East Timor prioritized the Timor Sea Treaty, Australia put more importance on the Sunrise Unitization Agreement.

When they signed the Timor Sea Treaty in May 2002, both governments agreed "to work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty." East Timor kept its commitment, presenting the treaty to its Parliament in November. On December 17, it was ratified by a vote of 65-13.

When they signed the treaty, the two Prime Ministers also agreed to negotiate a Sunrise unitization agreement by the end of 2002. The negotiations took longer than expected, partly because East Timor refused to concede Australian sovereignty over territory outside the JPDA, but insisted that the agreement, like the Timor Sea Treaty, be "without prejudice" to a future maritime boundary settlement.

In October 2002, East Timor enacted a Maritime Boundaries Law, claiming a 200 nautical mile Exclusive Economic Zone in all directions, based on UNCLOS principles. Since this overlaps maritime territory claimed by Indonesia and Australia, East Timor will negotiate with each of its neighbors to establish the extent of the new nation's territory. Although Dili has repeatedly asked Australia to begin boundary negotiations, Canberra has not yet accepted the invitation.

In one IUA negotiating session in Dili in November 2002, Australian Foreign Minister Alexander Downer lectured East Timor's Prime Minister Mari Alkatiri: "To call us a big bully is a grotesque simplification of Australia. We had a cosy economic agreement with Indonesia; we bailed East Timor out with no economic benefit. Our relationship is crucially important, particularly for you, East Timor. The two countries you can count on the most are Portugal and Australia. ... On principle we are surprisingly inflexible. ... 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."

The Sunrise project is many years away, no buyers have yet been found, and basic development decisions have not been made, so East Timor was in no hurry to sign a unitization agreement. Australia, on the other hand, was eager to lock in Sunrise, and to get East Timor to acknowledge Australian sovereignty over territory outside the JPDA. Although East Timor reluctantly accepted a unitization agreement that gave Australia more than four-fifths of Sunrise revenues, the new nation has not relinquished its claim to the contested territory.

Australia delayed ratifying the Timor Sea Treaty to force East Timor to sign the Sunrise IUA. Although Dili had ratified the Treaty in December, the Australian government refused to ratify, holding up the process and threatening the Bayu-Undan project. Bayu-Undan operator Conoco-Phillips said that the Japanese customers for Bayu-Undan gas could cancel their contracts if the

## Information Resources

*La'o Hamutuk* recently issued its *OilWeb* CD-ROM, a reference to issues relating to East Timor's oil and gas. *OilWeb* includes many of the presentations from the Dili conference, as well as hundreds of legal, historical, and analytical documents and everything *La'o Hamutuk* has published on this subject. Most is in English, but some articles are in Bahasa Indonesia, Tetum and Portuguese. The CD-ROM, which also includes the 17-minute video *Don't Rob Their Future* and a Tetum radio play, is available from *La'o Hamutuk* at \$50 for institutions, \$2 for East Timorese activists.

*La'o Hamutuk* has also produced a four-page, illustrated, Tetum-language *Surat Popolar* on the Timor Gap, which explains the history and the dilemma of the maritime boundary problem with Australia. It is intended to be used as a discussion guide for people throughout East Timor.

Treaty were not ratified by both governments before 11 March. On 5 March, East Timor's Government, fearful of losing Bayu-Undan, agreed to sign the IUA, and the Australian Government submitted the Timor Sea Treaty to Parliament. The following day, Alexander Downer returned to Dili to sign the IUA; on the same day, Parliament in Canberra ratified the Timor Sea Treaty.

During the debate on ratification in the Australian Senate, Green Party Senator Bob Brown described the process:

"Last night the (Australian) Prime Minister used blackmail on East Timor. ... The motive of the Prime Minister last night was to coerce East Timor, in terms of resources and money, through a threat to withdraw this legislation if the East Timorese government did not agree to sign the agreement today. ... We are debating today a piece of legislation that will involve, according to the Minister for Foreign Affairs, Mr. Downer, a \$50 billion (U.S. \$33 billion) break for Australia from the development of the oil and gas fields which are wholly within East Timorese waters, according to my interpretation and the interpretations of a number of international jurists.

"But the boundaries were moved to exclude part of those oilfields during the period of the Indonesian occupation of East Timor, and this treaty effectively excludes the lot and gives to Australia if not fifty-fifty then the majority of the prof-





its that will flow to governments from those oilfields. This is Australia being involved in a grand theft of the resources of our small neighbour East Timor—the most impoverished neighbour in the neighbourhood having its one resource that is going to help it get up off the ground in the future taken by its richest neighbour.

“This is Prime Minister Howard, on behalf of the oil corporations, ringing the Prime Minister of East Timor, Dr Alkatiri, and saying to Dr Alkatiri, according to the *Age* report, ‘If you do not sign the agreement for the development of the Greater Sunrise field’—which is the biggest field and which is East Timorese—‘and give that resource in the major part to Australia, then we won’t have this legislation go through the Senate today,’ which allows for the development of the other, smaller oilfield, which the East Timorese want to see developed. That is the Prime Minister saying, ‘Do as we want or we will take away a potentially lucrative contract with the Japanese for development of the Bayu-Undan oilfield.’”

For his honesty, Senator Brown was expelled from the Senate for the rest of the day.

The Timor Sea Treaty came into force on 2 April, after Australia completed its ratification process. Under the new Treaty, the former Joint Authority has been replaced by the Timor Sea Designated Authority (TSDA), which oversees oil and gas development within the JPDA. The TSDA is governed by the Timor Sea Joint Commission, which has two commissioners appointed by East Timor (TSDA Executive Director Einar Risa of Norway and East Timor’s Secretary of State for Investment, Tourism, and Environment José Teixeira), and one by Australia (John Hartwell from the Australian Department of Industry, Tourism and Resources). Although most of the office is still in Darwin, it will all move to Dili in two or three years.

## Bayu-Undan Project Underway

On 16 May, the TSDA approved the Bayu-Undan joint venture’s Production Sharing Contract and Development Plan, and on 5 June East Timor’s Parliament approved two tax bills relating to the project. With the legal procedures out of the way, Bayu-Undan operator ConocoPhillips (owner of 64% of the project), together with its partners Eni/AGIP of Italy, Santos of Australia and INPEX of Japan (each owning around 12%), can go ahead. In mid-June, the partners sold about 10% of their shares to the Tokyo Electric Power Company and Tokyo Gas Company, who will buy Bayu-Undan’s LNG for use in Japan.

East Timor expects to receive approximately \$3 billion in its share of production and taxes over the next 20 years from the Bayu-Undan project, but very little of the investment and employment will be in this country. The Bayu-Undan partners have promised to spend only \$57 million in investment and expenditure in East Timor over the project life, less than 2% of what they will spend in other countries. Australia’s Northern Territory, with one-fourth the population of East Timor, hopes to receive \$900 million from Bayu-Undan investment and expenditure. Although some believe this figure is exaggerated, it is more than fifty times as much per person as East Timor will receive in investment.

Construction for the first phase of Bayu-Undan – extracting natural gas liquids (condensate and LPG) from two dozen wells, processing it at sea, and shipping it to customers – is well underway and will be in production by 2004. Natural gas extracted during this phase is compressed and recycled back into the underground reservoir for re-extraction in the second phase.

The diagram on the previous page shows how this will work. Bayu-Undan is located under 80 meters of water, and includes a wellhead platform and two for crew quarters and processing. The actual production and loading onto oil tankers is done on a Floating Storage and Offtake (FSO) vessel – a specially-designed ship. All of the processing is done at sea, and most of the equipment is being built in South Korea, Singapore and Indonesia. Although this phase will yield East Timor \$1.8 billion in revenues over the next 20 years, it will create almost no jobs in either East Timor or Australia, and only about a hundred at sea. East Timor will, however, collect 90% of the taxes on economic activity within the JPDA.

The second phase, extracting natural gas for sale to Japanese customers, will produce an additional \$1.2 billion for East Timor. Construction has just started; production should begin in 2006 and continue until 2023. The companies will build a 500-km undersea gas pipeline from Bayu-Undan to Darwin, Australia, and a facility there will convert it to liquefied natural gas (LNG). Australia's Multiplex Construction company and Italy's Saipem SpA (a division of Eni) will purchase steel pipe from Japan, surround it with a concrete jacket in Malaysia, and lay it on the bottom of the Timor Sea. The installed cost of the pipeline will be nearly \$500 million.

ConocoPhillips recently signed a \$1 billion contract to construct a factory at Wickham Point in Darwin to liquefy the natural gas (producing LNG) for shipping to customers

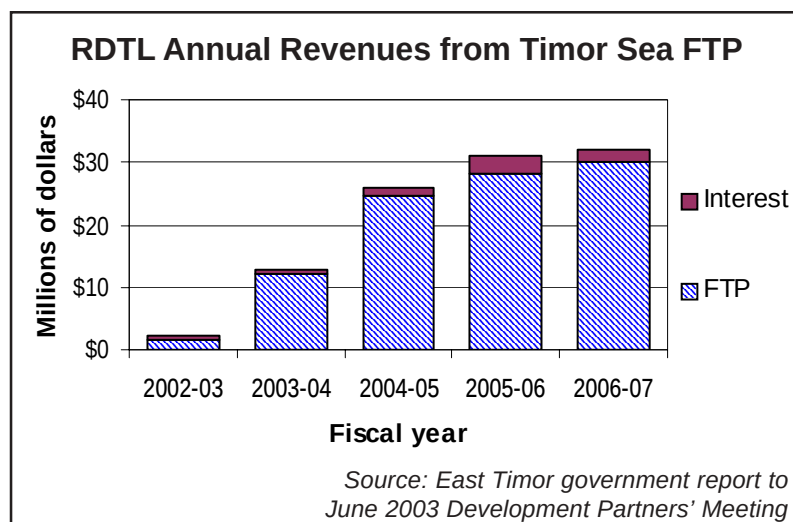
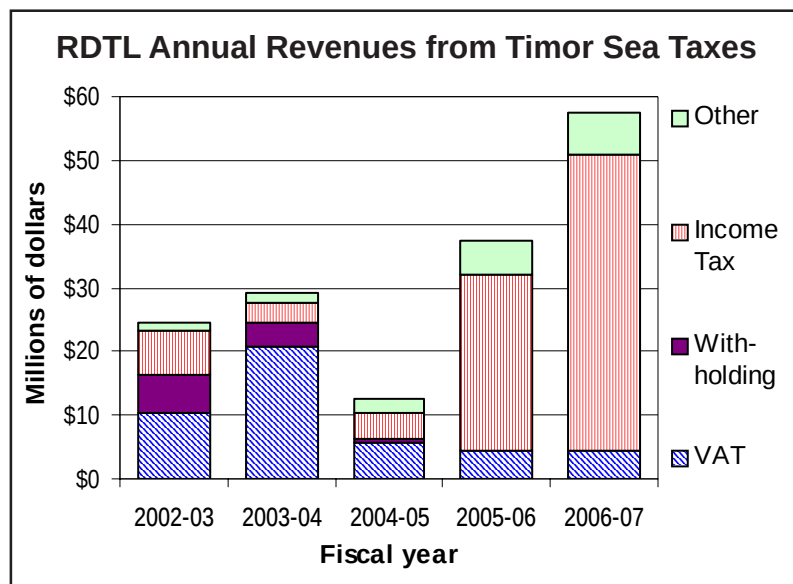
in Japan. The plant will be built by the U.S. engineering conglomerate Bechtel, a company with a long and nefarious history. (Bechtel, which has close ties to the Bush administration, just received a \$680 million contract from the U.S. government to reconstruct Iraq's infrastructure.) Although Darwin residents concerned about the local environment have protested the plant, construction began on 23 June and will take about three years. The pipeline and the LNG plant projects will greatly benefit Australia's Northern Territory economy, but hardly any of the money spent on downstream construction and processing, or the resulting taxes, will come to East Timor.

### Revenue projections

This article only looks at income East Timor can expect from petroleum in the next few years; *La'o Hamutuk* will report on this in more detail in a future *Bulletin*. Due to technical problems that have now been solved, Bayu-Undan Phase 1 production will be delayed by several months. This will have significant consequences for East Timor's government budget in the near term: estimated Timor Sea petroleum income for the two years 2003-5 have been reduced 42% (by \$30 million), although that revenue will be available in the future.

According to East Timor's 2003-04 budget, Timor Sea revenues from Elang-Kakatua and Bayu-Undan are as shown on the graphs at left. Only the tax revenues shown on the upper graph are used for each year's operating budget. This money includes:

- ✓ **Other:** non-tax revenues from petroleum development, primarily pipeline payments by Australia.
- ✓ **Income tax:** on oil companies and workers in the JPDA (90%) and in East Timor (100%), which is based on the profit made by the companies by selling petroleum. This will increase when petroleum production increases after 2006.
- ✓ **Withholding tax** on contractors, in advance against future taxes owed; this is unlikely to be significant from now on.
- ✓ **Value Added Tax (VAT)** on capital invested in the construction and deployment of the platforms and other equipment. This will decrease after 2004, as most of the upstream equipment has already been built.



East Timor's share of money from gross sales of the oil and gas (called First Tranche Petroleum, FTP), shown on the lower graph, is not used for East Timor's annual government budget. Instead, it is invested in a capital fund. Interest earned by this fund is currently reinvested, but future interest will provide income to East Timor 30 years from now, after the oil and gas has been used up. This fund is projected to accumulate more than \$100 million by the end of the 2006-7 budget year and will grow much larger after that; the graph at left indicates how much FTP and interest will be saved each year until then.

FTP revenues will expand dramatically after 2006, when Bayu-Undan phase 2 goes into production. Bayu-Undan is projected to contribute a total of about \$1.3 billion to the trust fund. After the companies recover



their three billion dollar investment, East Timor will receive additional profit oil income, but this is at least a decade away. This field will stop production around 2023, when all the condensate and gas which can profitably be extracted has been sold.

If Sunrise starts producing in 2009, it could generate income for the following 30 years, increasing the trust fund by about 25% under the current IUA. However, if East Timor were to receive its UNCLOS entitlement to most or all the Sunrise income, the trust fund could double in size.

### Smaller fields in the Joint Petroleum Development Area

For the last two years, East Timor's government received more than \$20 million per year (one fourth of the national budget) from taxes on Bayu-Undan construction, and as FTP from smaller oil fields in the Joint Development Area, primarily the Elang-Kakatua field. This field started production in 1998, making money for Indonesia and Australia, and is now 90% exhausted. With the ratification of the Timor Sea Treaty, East Timor receives 90% of the revenues earned

by this field since 20 May 2002, and 50% of what was earned between the end of 1999 and independence day. East Timor has received \$10.3 million in FTP revenues so far from Elang-Kakatua, 71% of which was paid during the UNTAET administration, and a comparable amount has been received in taxes. Before the end of 1999, Indonesia collected 50% of the taxes and revenues, approximately \$8 million, and that illegal occupier has not relinquished its stolen wealth.

Elang-Kakatua is now nearing the end of its production life, as is Laminaria-Corallina. The equipment which has been used to extract oil from those fields could soon become available, making it economical to exploit smaller fields in the JPDA, principally Kuda Tasi and Jahal. The joint venture that would develop these fields is operated by Woodside (with a 40% share), and also includes Inpex (35%) and Santos (25%). If Woodside's estimates are correct, these fields could bring in as much as \$100 million to East Timor during 2005-2007, which is not shown on the graphs because no definite development plans have been made.

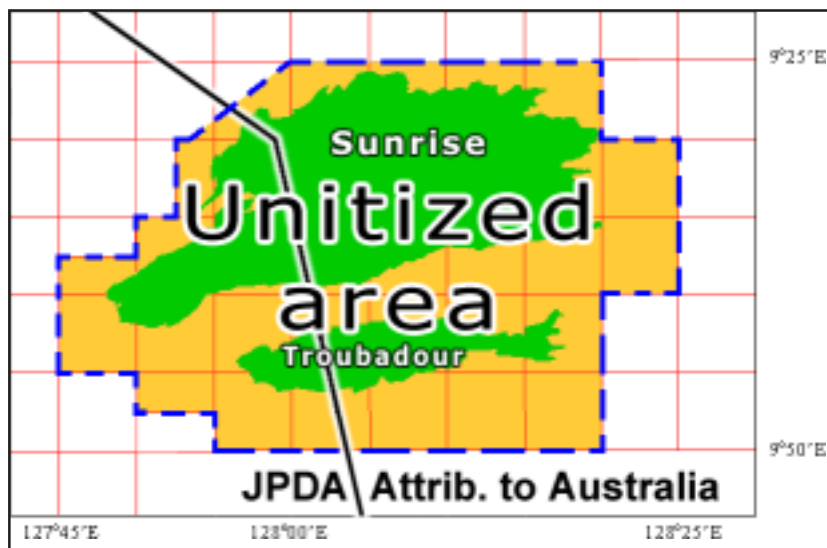
## Sunrise Unitization Agreement Signed

The Greater Sunrise gas field, which includes the Sunrise and Troubadour fields, lies approximately one-fifth inside the JPDA and entirely on East Timor's side of the median line between East Timor and Australia. It contains nearly twice as much petroleum as Bayu-Undan, approximately \$30 billion dollars worth. The oil companies, led by Woodside Australian Energy, want the entire field to come under one set of regulations and taxation. Fields that straddle boundaries are often unitized, treating the entire field as if it was in one area for legal and operational purposes, but dividing the revenues between two or more countries. When East Timor and Australia signed the Timor Sea Treaty in May 2002, the two Prime Ministers also signed a Memorandum of Understanding that both countries "will work expeditiously and in good faith to conclude an international unitization agreement (for the Greater Sunrise gas field) ... by 31 December 2002."

As described earlier, the negotiations were difficult. Although East Timor was pressured into signing a unitization agreement (IUA) that favors Australia 4-1, the new nation refused to surrender its territorial claims. The agreement was signed on 6 March 2003, and on the same day Australia ratified the Timor Sea Treaty.

In the map, the unitized area covered by the agreement is within a dashed line, including all of the Sunrise and Troubadour fields. The bent diagonal line marks the edge of the Joint Petroleum Development Area (JPDA). Revenues from the 79.9% of the fields which are outside the

JPDA (to the right on the map) are "attributed to Australia." The JPDA contains 20.1% of the fields, and since JPDA revenues are divided 90% to East Timor and 10% to Australia, Australia will receive 81.91% (79.9% + 2.01%) of the revenues from the Greater Sunrise field, with the remaining 18.09% going to East Timor. The IUA allows for adjusting the 79.9/20.1 ratio in the future, based on technical re-evaluation of how much gas lies inside and outside the JPDA.



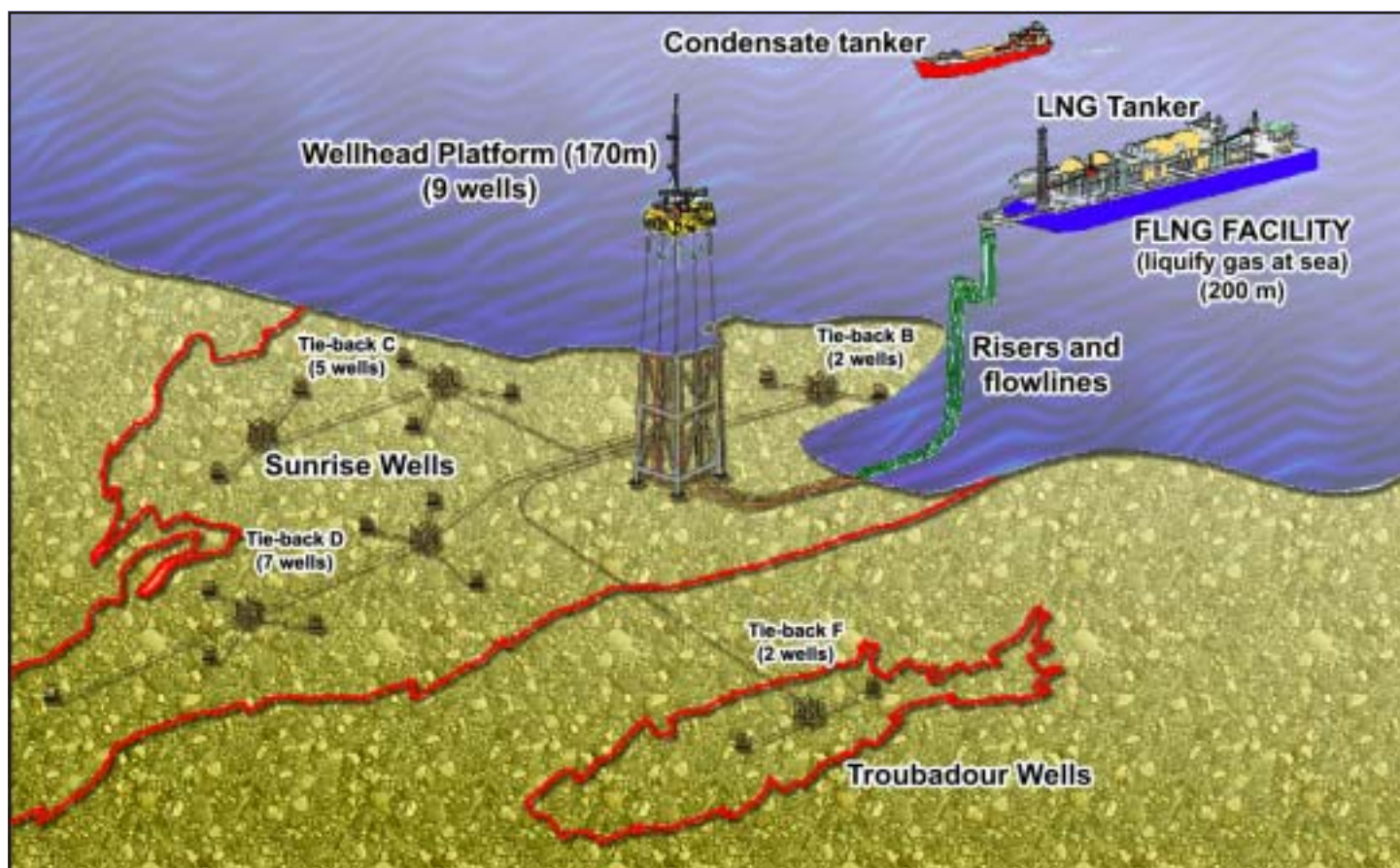
If a permanent maritime boundary is eventually agreed to, the Timor Sea Treaty becomes obsolete, and both countries will "reconsider" the Sunrise IUA, although the oil companies' contracts will not change, except for how their payments are allocated to each country. If no boundary settlement is reached, the IUA remains in effect forever and the Timor Sea Treaty lasts for 30 years, by which time most Timor

Sea petroleum will have been exhausted.

The IUA creates a three-member Sunrise Commission (two appointed by Australia and one by East Timor) to oversee the development of the field. Australian safety, health and environmental laws will apply throughout the entire field. Australian taxation laws will apply to 79.9% of the field's activities, while the tax laws defined in the Timor Sea Treaty will apply to 20.1%.

The Greater Sunrise project is operated by Woodside Australian Energy, which owns 33% of the fields, together with joint venture partners ConocoPhillips (30%), Royal Dutch





Artist's conception of the world's first Floating Natural Gas Liquification plant, one of the development options under consideration for the Greater Sunrise gas field.

(Adapted from a drawing by Woodside Australian Energy)

Shell (27%) and Osaka Gas (10%). Although exploration is underway, the companies have not signed any contracts for construction. The basic development plan has not been agreed to, and production will start no earlier than 2009.

Woodside and Shell are considering a grand experiment – the world's first floating natural gas liquification (FLNG) plant (see above drawing). The plant would be built and operated by Shell, buying gas from the joint venture, processing and liquifying it at sea, and loading it directly onto tankers bound for Japan or other customers. Such a project would involve additional expenses and risks inherent in any untried technology. As most of the construction would be done in other Asian countries, neither East Timor nor Australia would receive significant investment, taxes or employment revenue. The FLNG plant would probably be in the part of the IUA outside of the JPDA, and therefore pay VAT taxes only to Australia.

Others, especially the Northern Territory government, prefer for Sunrise Gas to be piped to Darwin, perhaps using the same pipeline system as Bayu-Undan, so that Australia would receive more of the jobs and taxes. ConocoPhillips recently said they do not support this concept, and Woodside and its partners don't see it as an economical choice.

A third option, suggested by some oil industry consultants would be a pipeline from Sunrise to the closest landfall, the south coast of East Timor, where an LNG factory would be built. This could be more lucrative for East Timor and more economical for the oil companies, but it would be the deepest undersea pipeline ever built. Others have suggested a small pipeline to supply Sunrise gas to East Timor for do-

mestic use, or an LNG factory on Tassie Shoal, shallow waters between Sunrise and Australia.

In making their billion-dollar Sunrise development decisions, the oil companies must consider seismic, geological, economic and political factors. *La'o Hamutuk* will discuss these issues in more depth in a future *Bulletin*.

The Unitization Agreement signed in March says nothing about development options. It is, however, accompanied by a Memorandum of Understanding between the two countries: if FLNG outside the JPDA is used, Australia agrees to pay East Timor \$1 million per year during construction, and \$10 million per year while Sunrise is in production, to compensate East Timor for suspending its taxation rights to the floating platform.

Before the Sunrise Unitization Agreement takes effect, it must be ratified by both countries. The Australian parliament has begun the process, accepting testimony (from *La'o Hamutuk* and the East Timor Independent Information Centre for the Timor Sea, among others) and holding a public hearing.

East Timor, on the other hand, is in no hurry to ratify the agreement. The Dili Government has not yet sent it to Parliament, and could postpone this process to encourage Australia to discuss maritime boundaries. Even after the agreement is ratified, East Timor can still use its majority control of the Designated Authority which governs the JPDA, to prevent Sunrise development. Bayu-Undan will provide sufficient revenue for East Timor from 2006 for two decades, and East Timor does not need Sunrise income while Bayu-Undan is in full production.

## Australia Stonewalls on Boundaries

East Timor, as a new sovereign country, is entitled to have its boundaries in the land, sea and air. The nation began to define its boundaries by enacting a Maritime Boundaries Law in October 2002. Since East Timor inherited no national maritime boundaries, it needs to agree on clear, permanent boundaries with its neighbors, Australia and Indonesia. Each country should resolve this boundary through negotiations and internationally-accepted legal mechanisms.

For East Timor, settling the boundary implements the values that formed the basis of the national struggle for independence. It is in the national interest to protect the sovereignty and dignity of the nation, to have legal order for the sea and land, and to protect the rights of the state to use and protect its natural resources and environment.

The Timor Sea question is key to establishing the boundary between Australia and East Timor. Indonesia and Australia drew lines in the Timor Sea while East Timor was under Portuguese colonialism and Indonesian occupation; these lines were accepted by the UN transitional administration and are still being used. But these lines do not apply to the sovereign Democratic Republic of East Timor.

In the spirit of strengthening peace, security, cooperation and friendly relationships with Australia, East Timor has repeatedly asked Australia to begin negotiations about the Timor Sea maritime boundary. One month after independence last year, Prime Minister Mari Alkatiri explained in Australia that East Timor is a sovereign country, and the maritime boundary should be settled through international legal principles.

In addition to East Timor's government, civil society organizations and political parties in East Timor support this effort. Last year, 13 civil society organizations formed the "East Timor Independent Information Centre for the Timor Sea" (CIITT) coalition to appeal to the Australian government and the governments of the world to settle the boundary before further developing oil and gas in Timor Sea.

However, the East Timor Transitional Administration under UNTAET failed to begin the boundary settlement process with Australia. On the contrary, the UN negotiated with Australia to continue the previously illegal exploration of oil and gas in the Timor Gap without identifying which nation's territory includes which parts of the seabed.

Since East Timor's independence, Australia's government has refused to discuss the maritime boundary. In fact, Australia has been unfriendly, blackmailing East Timor on the Timor Sea Treaty. In March 2002, before the Timor Sea Treaty was signed, Australia withdrew from the mechanisms of the International Court of Justice (ICJ) and the UNCLOS Tribunal for impartial arbitration of maritime boundaries. This may have made it impossible for East Timor to use international law to resolve the dispute if negotiations fail.

Australia's officials repeatedly declare that they are concerned about prosperity, stability and democracy for the people of East Timor. For that reason, Australia wants to

help East Timor in its national reconstruction and development. Paul Foley, Australia's ambassador to East Timor, stated that "Australia is a very good neighbor to East Timor, therefore Australia has an interest in the prosperity of the people of East Timor, security and peace, democracy and human rights."

When he came to Dili last November to negotiate the Sunrise IUA, Australian Foreign Minister Alexander Downer told Mari Alkatiri: "There are not one but two areas of unfinished business: the IUA and the renegotiation of maritime boundaries. In good faith we absolutely agree to enter into negotiations." Mr. Downer repeatedly mentioned "renegotiation" of maritime boundaries, but East Timor has never had maritime boundaries and this will be a negotiation, not a renegotiation. Eight months later, Downer's "absolute agreement" has not been converted into negotiations.

Unfortunately, Australia places its own economic prosperity ahead of concerns for its poorer neighbor. The Laminaria-Corallina oil field, which is in waters claimed by both countries but closer to East Timor than to Australia, began production in November 1999, as smoke was still rising from

the ashes of East Timor. By the end of 2002, the fields had produced more than US\$3 billion in sales, and more than 2/3 of the oil has already been extracted. Laminaria-Corallina's companies (Woodside, Shell, and BHP) have paid more than \$1 billion to the Australian government, and not one cent to East Timor. If a fair boundary were agreed tomorrow, Australia would morally owe this money to East Timor, al-

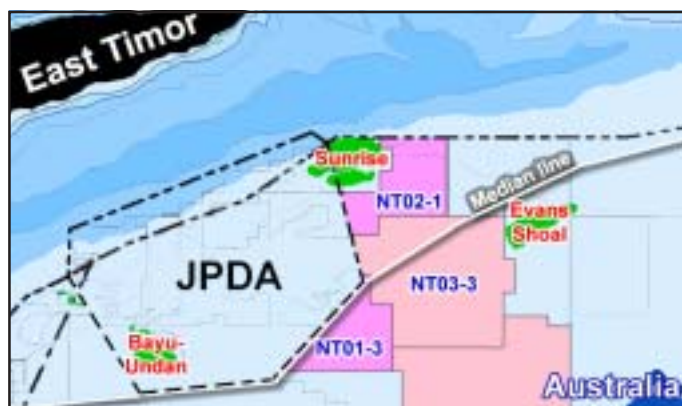
though it will be difficult for East Timor to collect.

Australia's current policies continue the colonial doctrine of *terra nullius* ("empty land") used by Europeans to justify settling Australia two hundred years ago, seizing land and resources from indigenous people who had lived there for millennia by pretending they were not human or did not exist.

Australia continues to sign and offer contracts with oil companies for disputed undersea territory on East Timor's side of the median line. As shown on the map on this page, all of area NT02-1 and part of NT03-3, which Australia offered to oil companies in 2002 and 2003, would probably be in East Timor's territory under UNCLOS principles.

Although the Timor Sea Treaty and the Sunrise Unitization Agreement state that they are "without prejudice" to the future settlement of maritime boundaries, current Australian practice is to act as if all territory not yet occupied by East Timor belongs to Australia, ignoring the rule of law and Australia's international commitments.

If Australia wants to assist East Timor in democracy, human rights, prosperity and stability, it should demonstrate a friendly, democratic and civilized attitude to its new, poor neighbor. But in reality, Australia is taking money from disputed Timor Sea resources, and delaying the boundary settlement with East Timor, perhaps until all the oil and gas is used up.





## Other developments

On 3 February 2003, the Federal Court of Australia dismissed a lawsuit brought by PetroTimor against Australia and Phillips Petroleum. PetroTimor, a small, U.S.-based oil company, had received an exclusive concession from Portugal in 1974 for oil exploration in the Timor Sea. (*See La'o Hamutuk Bulletin*, Vol. 3, No. 4). The company demanded compensation for the expropriation of its rights, but the court ruled that it did not have jurisdiction to rule on the validity of a concession granted by another country. Although PetroTimor officials have said they will appeal, no appeal has been filed.

During the first week of March, at the same time Australia was blackmailing East Timor to sign the Sunrise IUA, East Timor's Department of Mining and Natural Resources held a three-day conference in Dili on *Opportunities and Challenges for Oil & Gas and Mining Sectors in Timor-Leste*. Many of the presenters and papers discussed issues covered in this article. One speaker, Canadian international lawyer Jeffrey Smith, also spoke at a public meeting organized by *La'o Hamutuk*. The conference was the climax of months of training and capacity-building for department staff. USAID provided \$240,000 for this project, of which \$31,000 paid for the conference. Nearly half of that went to Hotel Timor.

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## Glossary

**Barrel of Oil Equivalent (BOE):** a unit to describe the quantity of energy contained in reserves of oil and natural gas. This unit makes it possible to add up reserves of different products in familiar crude oil terms. One trillion cubic feet (TCF) of natural gas is approximately 180 million BOE (mmBOE). One BOE is worth \$5-\$10 in government revenues, depending on global oil prices, production costs, tax rates, etc.

**Condensate:** light oil (sometimes called "natural gasoline") which forms the heaviest component of natural gas. It is found in many natural gas fields including Bayu-Undan and Sunrise. Condensate can be extracted and used as liquid fuel or for petrochemicals without the refining process required for heavier crude oil. Condensate can be processed at sea and loaded onto ships for transport to customers. Its market value is approximately the same as crude oil, higher than gas.

**ConocoPhillips:** the sixth largest oil company in the world, based in Texas, USA. The 2002 merger of Phillips Petroleum (long involved in the Timor Sea) and Conoco created ConocoPhillips, which is the operator and majority owner of Elang-Kakatua and Bayu-Undan in the JPDA, and also owns 30% of Greater Sunrise.

**Continental Shelf Principle:** a now-outdated way to draw maritime boundaries between two neighboring countries, based on the depth of the water between them. Water less than 200 meters deep (the "continental shelf") was claimed as the natural extension of the country's land territory. The 1972 Australia-Indonesia seabed boundary treaty, which followed the deepest water between them, was based on this principle. Many geologists see East Timor as part of the Australian continental shelf, with no continental shelf boundary between the two countries. Since the 1982 United Nations Convention on the Law of the Sea, this principle has been replaced by the median line principle, which is based on distance from the coastlines.

**Downstream:** the refining or liquification part of the petroleum process, converting oil or gas as extracted (upstream) into a form or product that can be transported and sold to customers.

**Exclusive Economic Zone (EEZ):** an area of the sea and seabed adjoining a country's land territory where the country has rights to exploit and sell the resources in and

under the water. Under UNCLOS, the EEZ usually extends 200 nautical miles (330 km) from the shore. When two countries are less than 400 miles apart, a process of negotiation and/or arbitration can decide the boundary between the EEZs, which is usually along the median line.

**First Tranche Petroleum (FTP) revenues (also called share of production):** A percentage of the money received for selling petroleum, paid to the government from whose territory the petroleum was extracted, beginning from the start of petroleum production. This is one of several sources of government revenue from petroleum development; comparable amounts can be earned from profit oil and taxes. East Timor's government has decided not to use FTP revenues to meet annual budget expenses, but to invest them for the future.

**International Court of Justice (ICJ):** A court in The Hague, Netherlands, where national governments can bring civil cases against one another. The ICJ has often served as a mediator or arbitrator in maritime boundary disputes. In March 2002, Australia gave notice that it would not accept ICJ processes for arbitrating maritime boundaries.

**International Unitization Agreement:** An agreement between two countries to develop a petroleum field or fields that crosses a boundary as a single entity, applying a single system of laws, taxes, environmental standards, safety codes, labor rules, etc. to that field. When a field is developed as one project, it would be impractical for different regulations to apply on different sides of an imaginary line in the middle of the sea.

**Joint Petroleum Development Area (JPDA):** An area of the Timor Sea between East Timor and Australia, but closer to East Timor. This was defined first in the 1989 Timor Gap Treaty as Zone of Cooperation Area A, and re-established by the Timor Sea Treaty. It is now jointly developed by East Timor and Australia, with East Timor receiving 90% of the government revenues.

**Joint Venture:** A coalition of corporations, in which several companies own shares of a single project or business. All Timor Sea petroleum projects are being developed by joint ventures, which have signed exploration and production sharing contracts with governments or bi-national agencies (such as the TSDA).

**Liquification (liquefaction):** the process of converting natural gas to LNG, done in a large factory. Although



liquification of Bayu-Undan's natural gas will be done on-shore in Darwin, Shell is proposing to liquefy the gas from Greater Sunrise at sea, after constructing the world's first floating LNG plant.

**Liquified Natural Gas (LNG):** Natural gas that has been compressed and cooled into a liquid form. This is required for long-term storage or shipment of gas.

**Liquified Petroleum Gas (LPG):** Propane and butane; see natural gas liquids.

**Median line principle:** the accepted legal rule for settling a maritime boundary when two countries' Exclusive Economic Zones overlap. As established by the UNCLOS and many ICJ decisions, the boundary should be drawn halfway between the coastlines of the two countries.

**Natural gas:** A petroleum resource found underground in a gaseous state, consisting primarily of methane and ethane, with smaller amounts of heavier hydrocarbons. It is often distributed as a gas by pipeline (usually after extraction of the heavier hydrocarbons), but can be liquified into LNG for storage or transport by ship, rail, or road. Most of East Timor's undersea petroleum is natural gas.

**Natural gas liquids (NGL):** The heavier components of natural gas extracted by cooling, and consisting of LPG (propane and butane) and condensate (pentanes and heavier hydrocarbons).

**Operator:** An oil company that is part of a joint venture (often the largest shareholder) and takes responsibility for exploration, drilling, construction and operation of processing facilities. However, all joint venture partners usually make major decisions together, each having a vote in proportion to their share. ConocoPhillips and Woodside Australian Energy are the operators of the offshore petroleum projects relevant to East Timor.

**Petroleum:** liquid or gaseous fossil fuel found underground. Petroleum includes crude oil, condensate, LPG and natural gas.

**Phillips Petroleum:** See ConocoPhillips.

**Production Sharing Contract (PSC):** a contract between one or more oil companies (see joint venture) and a governmental body to explore for and develop petroleum resources in a defined area and to sell the petroleum found there. Under the PSC arrangement, the government owns the underground petroleum resources, not the oil companies. The companies act as "contractors" to the government, being paid for their services with a share of production. Australia, UNTAET, and now East Timor have promised the oil companies that PSCs signed during the Indonesian occupation will be honored even if territory or revenue is reassigned.

**Profit oil (also called Second Tranche Petroleum):** Once oil companies have sold enough petroleum to recover their investment in a particular project, a share of additional sales are paid to the government(s) from whose territory the petroleum was taken. This is called profit oil, and is in addition to FTP that is paid from the beginning of production. The companies also pay income or corporate tax on their net profits, after subtracting operating expenses.

**Seabed boundary treaty:** signed between Australia and Indonesia in 1972. This treaty draws a boundary between

the two countries' seabed (ocean floor) resource entitlements, following the continental shelf principle of drawing the line through the Timor Trough, the deepest water between the two countries. Portugal, which was then administering East Timor, refused to participate in the negotiations, so there is a gap in the line off the coast of East Timor. In 1997, Australia and Indonesia signed another treaty drawing a boundary between their water column (fish, etc.) resources along the median line in accordance with more modern (UNCLOS) principles, but that treaty was never ratified due to East Timor's independence.

**Share of production:** see First Tranche Petroleum.

**Timor Gap Treaty:** Signed between Australia and Indonesia in 1989 to allow the two countries to explore for petroleum in illegally-occupied East Timorese seabed territory, with a 40-year term. This treaty closed the Timor Gap in the Australia-Indonesia seabed boundary by defining a Zone of Cooperation, later called the Joint Petroleum Development Area (JPDA). The Timor Gap Treaty became meaningless in October 1999, when Indonesia gave up its claim to East Timor.

**Timor Sea Development Authority (TSDA):** The current regulatory agency for the JPDA, established by the Timor Sea Treaty, majority controlled by East Timor.

**Timor Sea Treaty:** Signed between East Timor and Australia on 20 May 2002, came into force on 2 April 2003. This continues the JPDA defined in the Timor Gap Treaty, but replaces Indonesia with East Timor and allocates 90% of the JPDA government revenues to East Timor. The Timor Sea Treaty becomes void after 30 years, or after a permanent maritime boundary is agreed between the two countries, whichever comes first.

**United Nations Convention on the Law of the Sea (UNCLOS)** was signed at Montego Bay, Jamaica, in 1982, and adopted by most countries in the world. It entered into force in 1994. This treaty defines laws for many issues relating to the sea, including the establishment of Exclusive Economic Zones and procedures for establishing maritime boundaries according to median line principles. It also includes a tribunal (court) for dispute resolution, from which Australia withdrew in March 2002. Indonesia ratified UNCLOS in 1986, Australia in 1994. East Timor has not yet signed or ratified UNCLOS, although the Foreign Ministry has begun studies they expect will lead to its approval.

**Unitized, Unitization:** See International Unitization Agreement.

**Upstream:** the part of the petroleum resource development process that involves finding and getting the raw petroleum material out of the ground and into a pipeline or ship for further downstream processing.

**Woodside Australian Energy:** Australia's largest gas producer (although much smaller than international oil companies), operator of the Sunrise, Laminaria-Corallina, and Kuda Tasi/Jahal fields. Woodside is 34% owned by Shell, the second largest oil company in the world.

**Zone of Cooperation (ZOC):** established by the Timor Gap Treaty between Indonesia and Australia in 1989, now used as the Joint Petroleum Development Area by East Timor and Australia. ❖

## In Brief ...

**From 19-21 May 2003 *Focus on Global South* organized an international conference in Jakarta entitled *Iraq and the Global Peace Movement: What next?*** More than 60 peace and justice activists representing political organizations and NGOs coming from Asia, Europe, Australia, Africa and America participated in the conference. East Timor was represented by two *La'ó Hamutuk* staff members. The conference aimed to strengthen anti-war networks and promote peace and justice in the world particularly in Asia, Europe and North America. After three days of intensive discussion and debates, the participants agreed on a statement condemning the war in Iraq and violence occurring in Aceh, Mindanao and Kashmir. The participants also advocated for justice for East Timor, and they reaffirmed the need to continue fighting globalization and militarization, which have become tools by which rich nations oppress the developing world.

**On 6 June, East Timorese representatives from around 30 local organizations met in Remexio, Aileu District for two days to evaluate the activities of Dai Popular, the East Timorese Network for Popular Educators.** Among the participants were local NGOs, community based organizations as well as women's and farmer's groups from almost all districts of East Timor, who met to discuss popular education in East Timor and plan the activities of Dai Popular for the next six months. The plan includes monthly meetings in the districts to promote and facilitate the exchange of ideas and experiences among groups working with popular education.

In addition, there will be an international exchange with MST (Landless Movement), a peasant movement in Brazil struggling for agrarian reform and alternative methods of agriculture to be held in September 2004. International exchanges with popular educators in other countries are part of Dai Popular's strategy to deepen and develop local understanding of popular education and to strengthen relationships between organizations in East Timor and organizations in other countries with similar views. This September, Dai Popular and *La'ó Hamutuk* are organizing an international exchange for eight members of Dai Popular to visit Cuba to share ideas and experiences with groups using popular education for health, agriculture and community economy.

This was the third National Meeting for Dai Popular. The first one was in January 2002 in Dare, and the second in

September 2002 in Gleno. Dai Popular was formed by 20 local organizations to support and develop popular education in East Timor as a tool in the process of democratization and social transformation. Today the Network has 36 members. For more information on the work of Dai Popular see *La'ó Hamutuk Bulletin Vol. 3, Nos 2-3*.

**On 4 July more than 50 East Timorese and a few international supporters held a peaceful candlelight vigil outside the United States Ambassador's residence** where the ambassador was hosting a party to mark the 227<sup>th</sup> anniversary of the United States Declaration of Independence. The vigil was organized by the East Timor National Alliance for an International Tribunal, a coalition of NGOs including the Asia-Pacific Coalition for East Timor, Arte Moris, FOKUPERS, FORTILOS, GFFTL, GMPD, JSMP, Konsellu Solidaridade Estudante Timor Lorosa'e, KSI, *La'ó Hamutuk*, LBH Ukun Rasik An, LIFSLIPO, NGO Forum Timor Lorosa'e, Oxfam Australia, Perkumpulan HAK and the Sa'he Institute for Liberation. A joint statement delivered to the ambassador and many guests stressed the following points:

- The actions of the United States government violate principles of freedom, democracy and human rights, which are highly regarded by the people of the United States.
- Although the United States has given much aid and support in the preparation for East Timor's independence and the development process, for more than 20 years it supported Indonesia's invasion of East Timor and supplied weapons and training to the Indonesian military.
- The United States should support an International Criminal Tribunal for East Timor so that the people of East Timor can have justice for the crimes against humanity committed during the Indonesian occupation.
- The United States should stop supporting the Indonesian military, which is currently perpetrating human rights abuses in Aceh and West Papua, and instead make efforts to find peaceful solutions to the conflicts in these areas.
- The statement expressed dismay at the American invasion and occupation of Iraq against the will of the world. Freeing Iraq from a regime that prohibited freedom and violated human rights cannot be done with actions that violate freedom and human rights themselves. It called on the United States to withdraw its troops and respect the right of the Iraqi people to manage their own country. ❖

### Who is *La'ó Hamutuk*?

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# Brazilian Cooperation in East Timor

In 2002 East Timor joined the Community of Portuguese Speaking Countries (CPLP), which includes Angola, Brazil, Cabo Verde, Guinéa-Bissau, Mozambique, Portugal and São Tomé and Príncipe.

Portugal and Brazil are the only two CPLP members that give financial aid or have development projects in East Timor. For information on Portuguese aid see *La'o Hamutuk Bulletin* Vol. 3, No. 7. In this *Bulletin*, *La'o Hamutuk* continues a series of articles analyzing the relationship between East Timor and other members of CPLP.

## The Brazilian Cooperation Agency - ABC

Brazil is normally not a "donor" country, in the sense that it does not give international financial aid. Its international cooperation is based on technical cooperation with other developing countries, which, according to the Brazilian government, means "the transfer of technology, technical knowledge and practical experience on a non-commercial basis" and "support to the mobilization and development of local technical capacities, through actions implemented in partnership with external counterparts."

Projects and activities developed by Brazilian international cooperation are mainly consultancies, human resource training, joint research and study projects, and donation of equipment and material. Most Brazilian international technical cooperation is administered and coordinated by the Brazilian Cooperation Agency (ABC), a department within the Ministry of External Relations. As ABC is not an implementing agency it makes partnerships with governmental and non-governmental Brazilian organizations and foundations, as well as agreements with recipient governments to implement projects under its overall coordination.

In addition to ABC, the Brazilian government administers international aid projects and activities through bodies such as the Department of Scientific and Technological Cooperation, Department of Culture and Ministry of Health. However, this article will only examine the projects administered by ABC in East Timor, focusing on the two major projects: Community Literacy and the Center for Business Development, Vocational Training and Social Promotion.

## ABC in the World

ABC's projects may be bilateral or multilateral, through international bodies such as UN agencies. ABC also has spe-

cific projects within the scope of international forums where Brazil is a member, such as CPLP.

In 2002 all of ABC's technical cooperation with other developing countries was destined to Portuguese speaking and Latin American and Caribbean countries (see graph 1), and was mainly focused on agriculture, health, environment and education (see graph 2). Three percent of their projects are allocated to Asia, Pacific and Eastern Europe, and all of these are projects in East Timor.

*La'o Hamutuk* didn't have access to the official amount of ABC's cooperation, but sources inside the Brazilian government told us that the amount assigned to East Timor, which was approximately \$936,000 in 2002, is around 30% of the total amount of ABC cooperation worldwide.

## ABC in East Timor

In 1999 and 2000, during the United Nations Transitional Administration in East Timor (UNTAET), East Timorese leaders such as Xanana Gusmão, then the president of CNRT and Father Filomeno Jacob, Minister for Social Affairs in the Transitional Government, visited Brazil to promote the possibilities of Brazilian cooperation in East Timor, especially in the education and health sectors. ABC presented projects, which were eventually approved by the East Timorese leadership and UNTAET.

ABC's cooperation in health has been restricted to short-term activities such as training East Timorese doctors in Brazil, sending Brazilian doctors to East Timor and vaccination campaigns. No long-term projects have been developed.

The majority of ABC projects in the education sector are concentrated in the non-formal area, especially in the development and reintroduction of the Portuguese language. Most of these are adaptations of projects developed in Brazil.

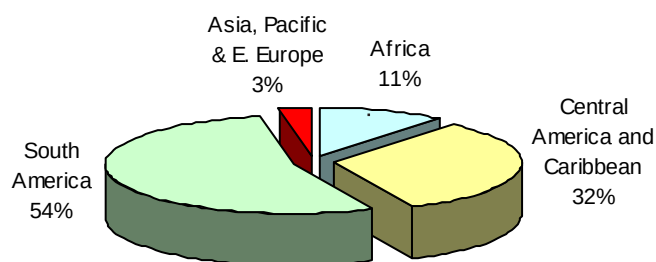
## ABC's projects in East Timor 2002-2003

Since ABC's cooperation with East Timor started in 2000, it has spent \$2,960,000. This amount includes Brazilian staff salaries and airfares to and from East Timor.

**Center for Business Development, Vocational Training and Social Promotion - \$1,800,000:** A Vocational Training project for adults and youths older than 15 years old (see next page).

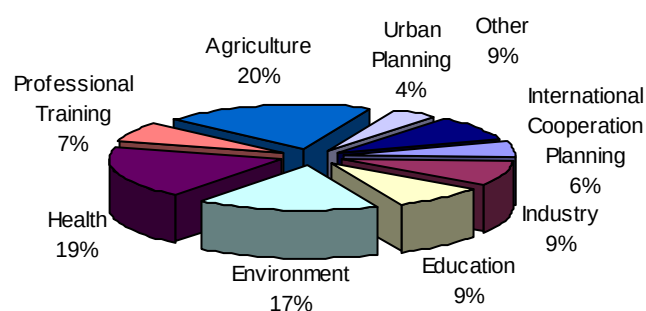
**Community Literacy Project - \$540,000:** A Portuguese lan-

**Graph 1: Distribution of Projects and Activities by Geographic Areas (number of projects)**  
December 2001



Source: Brazilian Cooperation Agency

**Graph 2: Distribution of Worldwide Projects by Sector**  
December 2001





guage literacy project for youth and adults (*see page 16*).

**Distance Education Project - \$490,000:** The distance education project caters for primary and secondary school levels although it is focused at students 15 years and older with a low-level education. The project uses the method of *telesalas*: subjects are taught through videotape, with a teacher providing supplementary teaching. All materials are identical to those used in Brazil. The project began in August 2001, with the plan to open 20 *telesalas* in Dili and Baucau, attending around 500 students. Today there are 12 *telesalas* in Dili (the ones in Baucau were never opened) providing for 283 students. The subjects for the primary school level are Portuguese, mathematics and science; secondary school includes three subjects as well as biology, physics and chemistry. Materials on East Timorese history and geography haven't been developed yet, so these subjects aren't taught. The objective of this project is to prepare young people who didn't have opportunity to go to school or to finish their studies during the Indonesian occupation to return to the formal education system. But the project has several problems: the materials do not respond to East Timorese needs; the drop out rate is over 40%; and only 16% of the students passed all three of their exams (in all three subjects), which is necessary to go on to the next year. Since the beginning of 2003 the project was handed to the Department of Non-Formal Education in the Ministry of Education, which has been evaluating the project and trying to adapt it to East Timor.

**Coffee Project – \$130,000:** A project in partnership with the Ministry of Agriculture, Forestry and Fisheries, with the objective of developing coffee production in East Timor and training agronomy technicians and coffee farmers in coffee techniques. The project started in 2002 and covers the coffee towns of Ermera, Gleno, Liquiça, Aileu and Same. A Brazilian technician and an East Timorese counterpart from the Ministry of Agriculture coordinate the project.

### Center for Business Development, Vocational Training and Social Promotion

The Center for Business Development, Vocational Training and Social Promotion is a project directly requested by President Xanana Gusmão, when he visited Brazil in 2000. President Xanana Gusmão visited the National Service for Industrial Training (Senai), in São Paulo, and asked the Brazilian government to implement a similar project in East Timor. The same year nine East Timorese went to Brazil for two months training at Senai and started the construction of the Center for Business Development, Vocational Training and Social Promotion in Becora. The project aims to offer vocational training to adults and youths with a low level of education in areas considered important to East Timor.

The center was launched on 21 May 2002 with classes in seven different areas: carpentry, furniture making, industrial sewing, bricklaying, electrical engineering, computer skills and plumbing. The baking course is ready to start with all the necessary equipment and a trained East Timorese instructor, but the Brazilian coordination is waiting for a Brazilian instructor to arrive in order to begin class. The project aims to expand to twelve subjects, but the new subjects have not

been defined yet.

Classes in each subject are four hours long and held every weekday morning and afternoon. Courses range from 400 to 600 hours over five to six months. As the subjects are vocational the courses are 75% practice with 25% theory. The students are evaluated on the number of hours they attend. All instructors are East Timorese, and they use Tetum or Indonesian in class, which are much more accessible to the students than Portuguese. The Brazilian instructors monitor and give support to the East Timorese instructors, but they don't get directly involved with the students.

The minimum enrolment age is 16 years old. Even though the center can handle 24 students per course, currently each course has an average of 10 students (*see table 2*). The drop out rate is around 40%. According to the East Timorese technical coordinator, it's mainly because students don't have money for transport or need to find paid work, since they don't receive any money to take part in the classes.

| Table 2: Students per Area |                                   |
|----------------------------|-----------------------------------|
| Area                       | Students<br>(morning + afternoon) |
| Furniture making           | 10                                |
| Carpentry                  | 9                                 |
| Industrial sewing          | 17                                |
| Computer skills            | 11                                |
| Plumbing                   | 13                                |
| Electrical engineering     | 8                                 |
| Bricklaying                | 8                                 |

The Portuguese Mission and East Timor's Secretary of Labor and Solidarity have a similar vocational training project in Tibar, in which students receive two dollars per day to take part in the classes. According to David Letichevsky, an ABC staff member interviewed by *La'o Hamutuk*, this is a paternalistic policy, which ABC refuses to follow.

Even though the project prioritizes people with a low level of education, it has a selection process that involves difficult tests, discriminating against students who haven't had a formal education.

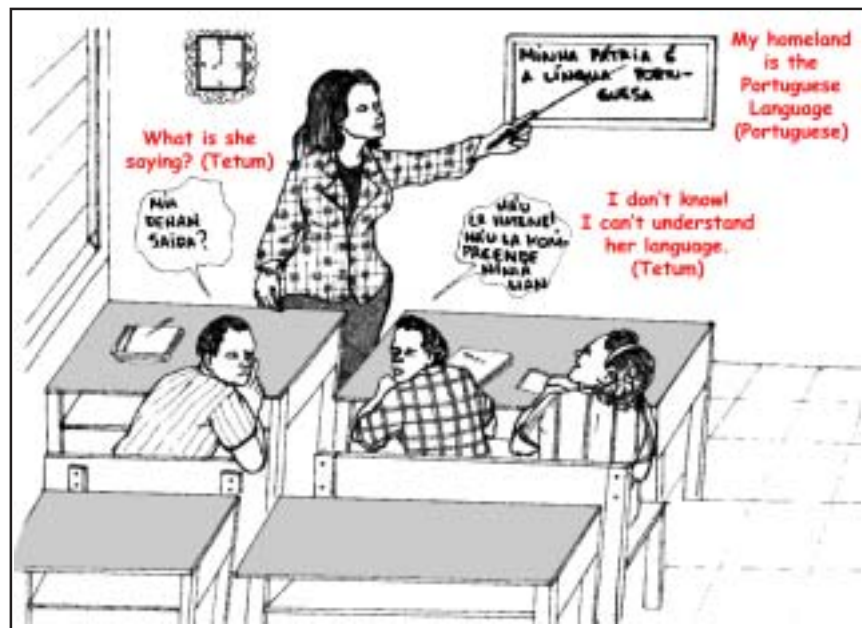
Another problem is the Brazilian coordination. There have been no Brazilian instructors in East Timor since December 2002, despite the fact that the overall coordination of the project is still in the hands of ABC. Besides the East Timorese instructors being left on their own, communication with Brazil is problematic, which makes the decision making process even slower.

The first phase of this project ended in 2002, and in the current phase the East Timorese government assumed responsibility for East Timorese staff salaries. ABC pays for the Brazilian instructors (which have not existed since December 2002) and provides funds for class materials. When the coordination of the center is completely handed over to the East Timorese government, the government will also receive all the center's equipment.

## Community Literacy Project

The Community Literacy project is an “adaptation” of a program implemented in Brazil since 1997 called “Solidarity Literacy,” a program to teach adults and youths older than 15 to read and write, created to reduce illiteracy rates and broaden the public provision of youth and adult’s education.

East Timor, Mozambique, São Tomé e Príncipe, Guatemala and Cabo Verde are the first countries to have the project implemented by the Brazilian cooperation. In these countries the project is implemented by Alfabetização Solidária, the NGO which developed the methodology and coordinates the program in Brazil, in partnership with Brazilian universities and local governments, under the overall coordination of ABC.



A pilot phase of the Community Literacy project began in Dili in October 2000. Around 20 East Timorese teachers, coordinators and instructors were trained in Brazil. The project opened 11 classrooms in Dili, attending to about 275 students. The methodology and materials are the same as those used in Brazil, and the project aims to teach students to read and write Portuguese, as part of the efforts of ABC to promote the Portuguese language in East Timor.

The pilot phase ended in December 2001, and in January 2002 the second phase expanded the project to the rest of the country. Community Literacy classrooms were opened in all 13 districts, each with 10 teachers, a coordinator and a pedagogic instructor, totaling 156 staff. All staff were trained in Dili by a team of Brazilian teachers.

The second phase ended in December 2002. In the third and final phase the project was transferred to the East Timorese government, which assumed administrative and financial responsibility, including paying staff salaries. It has also modified the project, and the first six months of the classes will now be dedicated to teaching how to read and write Tetum, before teaching Portuguese. The

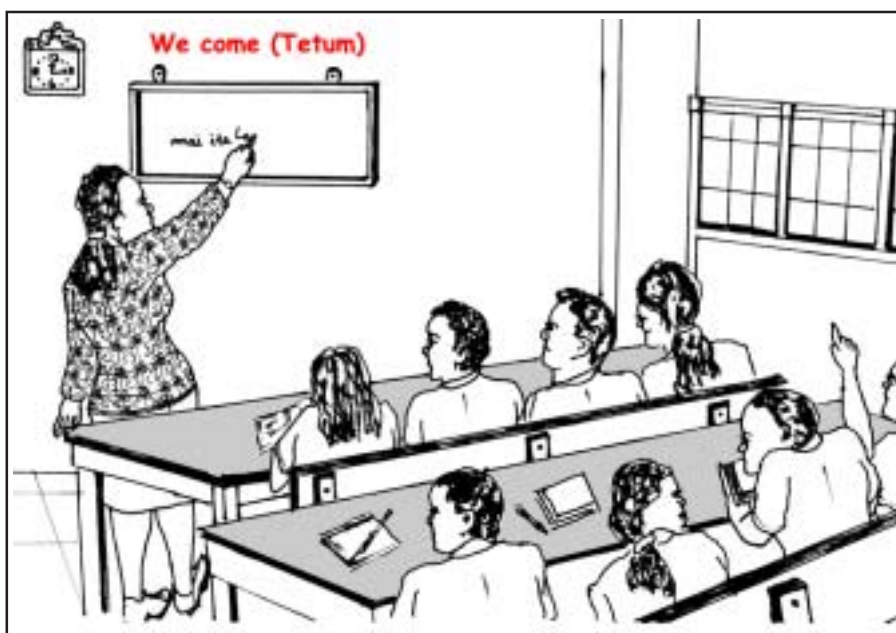
“new” project, called “Reading and National Literacy,” has already started and the Ministry of Education intends to open 205 classrooms, attending to around 6,000 students in all 13 districts.

In this last phase the role of ABC cooperation is still being negotiated. However it seems that it will concentrate on capacity building for the Ministry of Education team, developing teaching materials and supporting the writing of a curriculum for non-formal education in partnership with the Ministry of Education.

## Problems and Results

According to a document on Alfabetização Solidária’s website, “in these countries the program participates in the selection and training of the teachers, the evaluation of results, as well as in the implementation of a structure which permits the continuity of the process of adult and youth education. ... The objective is to adapt the project to the characteristics and specific needs of each country and guarantee its self-sustainability.” But it is not always successful and these objectives are often not reached in practice.

In the case of East Timor one of the main problems is the language. The methodology used in East Timor is the same as that prepared for Brazilian students, who have Portuguese as their first language. The great majority of East Timorese have little familiarity with Portuguese and it is much more difficult developing literacy skills in a new language. *La’o Hamutuk* found difficulties in getting reliable information about the results of the project. The staff at the Ministry of Education provided very different information from that provided by the Brazilian coordinator,



Prof. Antônia Pincano, interviewed when she visited East Timor for ten days in March 2003. According to a high-ranking East Timorese working in the Department of Non-Formal Education, the drop out rate in the first phase of the project was around 40%, mainly due to the difficulties met by the students following the classes in Portuguese. Prof.

Pincano stated that the drop out rate was 19% and mainly due to illness and lack of transportation and teachers. But during the interview, she admitted that the classes started with an average of 25 students and ended with around 16, a drop out rate of 36%.

*La'o Hamutuk* encountered similar problems getting information about the second phase of the project. At the time of writing the evaluation of the students hadn't been completed. Prof. Pincano reported that 141 literacy classrooms were opened, with around 25 students each, of which 24 were closed during the year, mainly due to lack of teachers. The Ministry of Education reported that 156 classrooms were opened but 31 were later closed because of the high drop out rate. An official at the Ministry of Education also said that of the 20 classrooms opened in Dili, only seven remained open until the end of the project phase. Many East Timorese students reported that being taught in Portuguese was a problem. The Ministry of Education intends to raise the students' motivation and reduce the drop out rate with the third phase of the project by using Tetum for the first six months.

During the two first phases of the project, under Brazilian coordination, East Timorese officials didn't have authority to make changes to the methodology. According to Prof. Pincano "the explanation can be done in Tetum, but all activities must be in Portuguese."

The project was managed from Brazil. East Timorese project officials located in each district implemented the project but had no decision-making powers. Teams of two Brazilian teachers came to East Timor every two months for periods of ten days, to visit project sites, check project implementation and make decisions. Each team was responsible for three districts, alternating the visits. That means that each district was visited about every six months, for no longer than four days, which is not enough time to understand the problems faced by the project in each district. Many East Timorese working in the project at the local level considered the Brazilian management too distant and ignorant of the situation in East Timor. David Letichevsky admits that ten days are not enough to coordinate a project of this size. Prof. Pincano stated that the Brazilian teachers who make up the visiting teams in East Timor maintain jobs in Brazil and cannot be away for very long. It's clear that it would be more effective to place one person on a long-term residency basis to coordinate the project together with an East Timorese counterpart.

There are also problems with the level of preparation the project offers to the students who finish the classes. In Brazil Solidarity Literacy program is criticized by several experts and groups working with adult and youth education who say that the teaching period (five months in Brazil) is too short and that the program values quantity rather than quality. In East Timor *La'o Hamutuk* heard similar criticisms: one year is not enough for students who don't know how to read and write to reach a high enough level of literacy in a new language so that they can continue their studies in other programs for adult and youth education.

Prof. Pincano said that the program is not an orthodox literacy program, but is centered on reading and conversation. According to her, the students who finish the first year and are not ready to continue their studies can repeat the year, since "the teachers are trained to teach totally illiterate

students as well as those who are partially literate". She said that the progression to adult and youth education is still being studied with the Ministry of Education, but she admitted that the plan for the future is to have two levels of literacy classes, each lasting one year.

## Conclusion

*La'o Hamutuk* knows that Brazil is not a rich country, and we welcome its efforts to contribute to East Timor's development and reconstruction. But we believe that these efforts must be used in the most effective way, respecting the needs and wishes of the people of East Timor.

It's clear that the fact that East Timor chose Portuguese (along with Tetum), as its official language has a lot of influence on the amount of ABC cooperation. But the Brazilian government has to keep in mind that according to the Ministry of Education less than 5% of the East Timorese population speaks Portuguese, and that it is not their native language. The poor results of projects such as Community Literacy and Training of Teachers and Students with Distance Education Resources show that projects designed for a Brazilian context cannot be effectively implemented in East Timor without making significant changes to adapt them to the differences. Of course it's very useful to take into account other experiences, but it's even more important to develop East Timorese experiences. And the effective participation of East Timorese in this process is essential.

For future Brazilian projects to have better results, some strategic changes must be made:

- Have the direct involvement of East Timorese society, such as local NGOs and grassroots organizations, in designing the projects;
- Promote the effective participation of East Timorese staff in the implementation and adaptation of the project, not only as executives, but with power to decide and influence decisions;
- In the education projects, use material designed by East Timorese teachers, who know and understand the reality and culture of their country. It should also support the development of materials in Tetum.
- Brazilian staff and coordination has to be more committed to understand and truly respect the country and the people for which they are working, and work together, at the same level, with their East Timorese counterparts;
- Have a resident overall coordinator living in East Timor and working closely with an East Timorese counterpart, in order to truly understand the problems faced by each project and how to solve them;
- Portuguese is not the only official language in East Timor, and it's understood by a small part of the population. The Constitution, which established Tetum and Portuguese as official languages, also states "Tetum and other national languages must be valued and developed by the State." When establishing projects promoting Portuguese in East Timor, the Brazilian government should be aware of and respect this reality. The refusal of Brazilian staff to communicate with their East Timorese counterparts in Tetum and the resistance of the Brazilian government to include Tetum in its education projects disrespects the rights and wishes of the East Timorese people. ❖



# Development Partners Conference Report

The fifth international donors conference for East Timor was held in Dili on 4 and 5 June 2003. The conference, organized by East Timor's government and the World Bank, included representatives from Australia, Canada, China, the European Union, Finland, France, Germany, Ireland, Japan, Malaysia, New Zealand, Norway, Portugal, South Korea, the United Kingdom and the United States. East Timor's Prime Minister Mari Alkatiri and Jemal-ud-din Kassum, vice president of the World Bank for the Asia Pacific region, chaired the meeting.

In addition to donor countries, international financial institutions and the government of East Timor, UN bodies in East Timor such as UNMISET, UNDP, UNESCO, UNICEF and FAO also attended this conference. Civil society was represented by Cecilio Caminho Freitas of the East Timor NGO Forum, Tomas Freitas from *La'o Hamutuk*, João Mariano Saldanha from the East Timor Study Group, Nelson Belo of the Judicial System Monitoring Program, and Jamieson Davies from Catholic Relief Services (representing international NGOs in East Timor).

This Conference reviewed the government's planned development budget for East Timor, the national development strategies, and with the Transitional Support Program (TSP). The system of funding for this Transitional Support Program is different from TFET that was previously managed by the World Bank and ADB. TSP is a channel through which the World Bank facilitates and monitors funds given by the Development Partners, before transferring them for government use. (See *La'o Hamutuk Bulletin Vol. 4, No. 2*.)

## East Timor government program

The government of East Timor, as represented by President Xanana Gusmão, Prime Minister Mari Alkatiri, and Finance and Planning Minister Madalena Boavida, explained the priorities of development and the budget to the Development Partners.

### From Xanana's opening speech

I am informed that we have made considerable progress on planning. But it is not enough. We need to show more substantial progress in implementing the plans we made, in delivering education and health services to our people, in making available improved seeds and implements to our farmers, and in arranging for sale of their products at reasonable prices. The barometer of progress is not how much money our development partners gave or what the Government budget is, but whether our youth and veterans have remunerative jobs, how much our people have produced and whether they are able to sell it, whether there is "food in the pots" in the villages during the lean months, whether our children are attending school, and if our people are receiving quality health care. We need to mobilize and involve our people "as agents of change" in transforming their lives and building a better future for themselves, their children and the nation, rather than victims receiving "alms" from the Government and the donor agencies.

Prime Minister Mari Alkatiri explained the government's efforts in prioritizing the programs in the national development plan. According to the Prime Minister, the government is now focusing on economic development and employment to address poverty and unemployment, security, stability, institutional capacity development, interactive relationships between the community and government, good governance, and management of oil wealth. The government is working for a national forum including the government, civil society groups, NGOs, private and aid sectors, church organizations and others to discuss national issues.

## Perspective from civil society

In another session, civil society groups gave their observations about the plans and the budget submitted by the East Timor government. The representatives of civil society in raised several issues including the Timor Gap, justice and foreign policy. One statement was given by the NGO Forum, representing several local and international NGOs. In a separate statement, nine NGOs in support of *Ukun Rasik An* (a Tetum phrase encompassing sovereignty, self-determination, self-sufficiency and independence), including *La'o Hamutuk*, gave additional recommendations.

### From the statement by NGOs in Support of *Ukun Rasik An*

Although the atrocities committed against the East Timorese people can never be erased nor forgotten, those complicit in these crimes should fulfill their responsibility to make amends. This is not a form of charity, but a modest beginning to reparations. ...

East Timor's independence process is not complete until Australia and East Timor agree on boundaries in the Timor Sea. We ask you to encourage Australia to rejoin the community of law-abiding nations by accepting East Timor's offer to negotiate maritime boundaries and, if negotiations fail, by participating in the internationally accepted legal processes for resolving boundary disputes. ...

The majority of East Timor's population are victims of crimes against humanity that occurred in this country from 1975-1999. We hope the Development Partners will listen to our demand that the architects and perpetrators of these crimes be held accountable. We ask East Timor's Development Partners and the rest of the international community to demand that Indonesia cooperate with justice in a meaningful way. ... it is past time for the United Nations to begin establishing an international tribunal to try crimes against humanity committed in East Timor. ...

Development Partners should not be putting pressure on the government to privatize basic social services, but should provide the space, time and support to enable East Timor's people and government to fully evaluate such proposals. Development Partners should provide sufficient funding so that impoverished people are not denied essential services like education and health care because of their inability to pay.



### Perspectives and commitment of the Development Partner countries

In this conference a number of donor countries and UN bodies gave their views and commitments regarding the national development plan and national budget.

In their statements, they praised that the East Timor government for developing and implementing the National Development Plan. According to them, the positive steps taken by the East Timor government include the “open government” program carried out in the districts, the signing and ratification of the Timor sea Treaty, the formation of the veterans and ex-combatants commission, and the normalizing of diplomatic relations with Indonesia.

In addition to praising the above accomplishments, the Development Partners had concerns about several areas:

- ✓ The justice system, which they believe is not running effectively and transparently.
- ✓ KKN (corruption, collusion, nepotism)

- ✓ The development strategy for East Timor’s police force must be clear, including transparent recruitment and the promotion of human rights.
- ✓ Implementing the decision to develop Tetum as a national language and teach it in primary schools
- ✓ Decentralization of power in decision-making, services and government support, as well as managing resources and creating effective local government.
- ✓ Poor child nutrition
- ✓ Electricity

The donors will allocate US\$27 million for East Timor’s government budget for the fiscal year 2003-2004. \$5.2 million of this amount has already been confirmed, and the balance of \$21.8 million is yet to be confirmed. For fiscal year 2004-2005, the partners have pledged \$25.9 million. For a more detailed picture of donor contributions to East Timor during the past fiscal year, which are similar to the upcoming ones, see *La’o Hamutuk Bulletin* Vol. 4 No. 2. ❖

## Historical Archive CD-ROM Available

The International Federation for East Timor (IFET) has just produced a CD-ROM reference with 500 megabytes of English-language news and documents relating to East Timor between 1991-2002, including a search capability.

Available at La’o Hamutuk: \$2 for activists, \$50 for institutions.

## Listen to La’o Hamutuk’s Radio Program

Interviews and commentary on the issues we investigate -- and more!

In Tetum and Bahasa Indonesia

Every Friday at 3:00 pm on Radio Rakambia.

Every Saturday at 11:00 am on Radio Timor Leste and Radio Timor Kmanek

# Editorial: What Should UNMISSET Do Now?

*La'o Hamutuk gave this letter to United Nations General Assembly President Jan Kavan when he visited East Timor during the last week of July.*

**La'o Hamutuk**

*East Timor Institute for Reconstruction Monitoring and Analysis, Dili, East Timor*

25 July 2003

United Nations Secretary-General Hon. Kofi Annan  
President of the United Nations General Assembly, Hon. Jan Kavan  
Special Representative of the Secretary-General for UNMISSET Hon. Kamallesh Sharma  
Members of the United Nations Security Council

Dear Excellencies:

In less than one year, the United Nations Mission in Support of East Timor (UNMISSET) will be over. This mission, the third UN mission here since 1999, has accomplished much but has left much to be accomplished.

As you discuss the final months of UNMISSET, and what form United Nations support for East Timor will take after June 2004, there are many factors to be considered. We are writing to offer a perspective from East Timorese civil society. La'o Hamutuk has monitored and interacted with UNAMET, UNTAET and UNMISSET over the last four years, and we hope our suggestions are useful.

Much has been written about "lessons learned" from UNAMET and UNTAET, and we will not repeat those conclusions. Rather, we would like to highlight the fundamental difficulty of supplying government or advice from afar, using personnel and institutions that are not accountable to the people they are intended to govern. We believe that the concept of a United Nations Transitional Administration is problematic, and that UNTAET barely overcame the challenges stemming from using personnel, "volunteers," and consultants who were answerable to structures and regulations designed and managed by an institution on the other side of the world. UNTAET's mandate was mostly over by the time it understood that "transitional" was more important than "administration" in its name, that its primary purpose was to provide capacity and structures which would enable the newly-independent nation of East Timor to govern itself.

For UNMISSET, with "support" as its middle name, the intention is clearer and more democratic. Nevertheless, we believe that there are serious shortcomings in how UNMISSET has performed during its first 14 months, and we offer some suggestions as to how the remaining time can be used more effectively.

We believe that the international community has a continuing obligation to provide support for Timor Leste. For a quarter-century, international hypocrisy and deliberate neglect allowed Indonesia to inflict an illegal, brutal occupation. Even in 1999, when the United Nations finally decided to take effective action, international deference to the fiction of Indonesian sovereignty facilitated pre- and post-ballot terror and devastation by Indonesian's military forces. East Timor still suffers from the legacies of 24 years of crimes against humanity, for which the international community has largely failed to hold the perpetrators accountable.

In a just international order, the powers that supported Indonesia's occupation and failed to prevent the destruction of 1999 would pay reparations to the people of East Timor. But even in today's world order, the international community, including the United Nations, has an obligation to finish tasks that it has started. Furthermore, the world owes some honesty and consideration to the people of East Timor, who were neglected for so many years, and were then subject to pioneering projects in transitional government and post-conflict reconstruction, development and justice. Where those experiments are failing, the responsibility remains with the international community to set them right.

According to Security Council Resolution 1410, "UNMISSET will, over a period of two years, fully devolve all operational responsibilities to the East Timorese authorities as soon as is feasible, without jeopardizing stability." That two-year period is more than halfway over, and it is a good time to look at what international responsibilities remain today, and which will remain after May 2004.

We have a continuing concern that many Mission activities do not adequately address the post-UNMISSET period, when East Timorese will be responsible to carry out functions currently performed by international staff and advisors. One improvement would be to provide trainings, training materials, and other information in languages understood by most people in this country: Tetum and Bahasa Indonesia, and to hire international personnel who can communicate in those languages.

For each task that UNMISSET has taken on, there are several possibilities:

1. The task is being done well, and will be completed by the end of the mandate.
2. There are problems with performing the task or completing it before the end of the mandate. These can be addressed by improving or modifying UNMISSET's performance.



3. The task, with or without improvements, will not be completed by the end of the mandate. The UN should find a way to ensure that it can be completed after the mission ends.
4. There are problems with the task, but UNMISSET is unable adequately to address them. In these cases, there is no point in perpetuating that part of the Mission, and it should end before or as scheduled.

### **Military (external) security: Peacekeeping Forces and Military Observers**

UNMISSET's mandate is to "Contribute to maintenance of external and internal security of East Timor." Although PKF has protected East Timor's border since late 1999, many East Timorese are concerned that East Timor's Falintil-FDTL defense force is not adequately trained to fulfill this responsibility after PKF leaves. We recognize that training East Timor's military has not been PKF's role, but we suggest that F-FDTL should be allowed to work more closely with PKF, learning from international soldiers and military units with more training and different experiences. During UNMISSET's final year, joint operations and information sharing with F-FDTL, together with gradual transfer of responsibilities, will provide greater security in the future.

After next May, East Timor should no longer require defense by international troops, although UN soldiers could serve as advisors and training. Command responsibility and operational control should rest entirely with the government of East Timor.

### **Internal security: United Nations Police (UNPOL)**

Part of UNMISSET's mandate is to provide interim law enforcement and public security, which has seen some successes and some notable failures, especially the 4 December 2002 Dili incident. UNPOL, which has command responsibility over the East Timorese police (TLPS), has fallen short in transparency, coordination, and accountability. UNPOL also fails to act effectively in crisis situations, and does not give clear direction to TLPS.

UNMISSET is also responsible to assist in the development of the East Timor Police Service. Although UNPOL is training many TLPS officers, the training is inadequate in time and content, given the large number of inexperienced officers. Furthermore, well-equipped UNPOL units do not leave their equipment with TLPS when an area is handed over.

Greater efforts should be made to improve the effectiveness of the training, using more accessible materials and giving increased attention to human rights. When UNPOL transfers an area to TLPS responsibility, the vehicles, weapons, communications and other equipment they have been using should remain in the area. The UN can work with donors to obtain additional equipment for TLPS.

For the remainder of the UNMISSET mission, operational decision-making should be transferred to East Timorese police officers as much as possible. After UNMISSET ends, international police should remain here as mentors, to provide additional classroom and field training, but they should not have operational or command responsibilities.

### **Justice: Investigate, prosecute and try perpetrators of serious crimes committed in and against East Timor between 1975 and 1999**

Many of these crimes were "crimes against humanity", and all humanity has a responsibility to ensure that those who committed them do not escape with impunity. Most of the perpetrators are given sanctuary by the government of Indonesia, which has shown itself unable to provide justice within its own judicial system, and unwilling to cooperate with UNTAET, UNMISSET and other international processes. Many of them are repeating the same crimes they directed here against the people of Aceh and elsewhere.

If the international community is not willing to compel Indonesia to cooperate with justice, there is no reason to continue a hypocritical charade. The following suggestions optimistically assume that there will be international political will for justice for a quarter-century of crimes against the people of East Timor and humanity.

We continue to believe that an international tribunal for East Timor would be the best option. However, we offer some observations on the justice process as currently constituted, and about some of its problems.

Although the Serious Crimes Unit was slow getting started, it has now indicted more than 300 people, including some Indonesian generals who masterminded crimes here during 1999. Unfortunately, more than 70% of those indicted enjoy impunity in Indonesia, which refuses to honor its commitment to cooperate with investigations and extradition. Only a few warrants have been listed with Interpol, and no alleged perpetrators have been arrested outside East Timor. Many other investigations are not yet completed. Furthermore, the Serious Crimes Unit has limited its investigations to the last year of the illegal Indonesian occupation (1999), although more than 98% of those killed during the occupation died before 1999 and the SCU legal mandate includes such crimes with no time limit.

The very slow process is causing frustration among the victims and other East Timorese people.

If the international community is serious about justice, and is able to get Indonesia to cooperate, the UN might then be able to fulfill its responsibilities to justice and to the people of East Timor. Investigations started by May 2004 should be completed, now matter how long it takes. All suspects who have been or will be indicted should be arrested and brought to trial.

An essential element of justice is to conduct trials, appeals, and sentencing for people who have been accused and indicted. The Special Panels for Serious Crimes were established by UNTAET to perform this function, and they have continued under the joint sponsorship of UNMISSET and the government of East Timor. However, they have been slow and ineffective, and still suffer from lack of institutional support and resources. Only about 11% of those already indicted have been brought to trial, and very few appeals have been heard. This is clearly an unfinished task, and one which will not be finished before the end of the UNMISSET mission.

If the United Nations intends to achieve justice, that intention can only be realized with improved commitment, resources and political will from the international community. Until the Security Council establishes a true international tribunal, the hybrid international-national Special Panels should be kept in place to finish what the UN started, until all those indicted by the SCU have been brought to trial. The Court of Appeal must also continue with international judges and support so that those brought to trial can enjoy their full legal rights.

On the other hand, if the international community does not want justice here, and if the Serious Crimes Unit is only an international public relations exercise to issue indictments with no serious possibility of arrest and trial, the hoax should not continue.

### **Civilian Support Group (Technical Advisors)**

Unfortunately, the traumatic history of East Timor and the shortage of experienced government officials and administrators continues to require international advisors in some key areas of government. These advisors should “help, not do” — their primary function should be to build the capacity of East Timorese, so that fewer international advisors are needed in the future, rather than to impose inappropriate concepts or models from other countries. For the remainder of the Mission, East Timorese must have greater control over who the advisors are and what tasks they are assigned. If the Civilian Support Group is able to improve its performance and language skills, they could continue to serve East Timor after UNMISSET's mandate ends.

### **Human Rights**

The Human Rights Unit of UNTAET and UNMISSET has provided valuable services, but it could be greatly improved. Additional materials need to be developed in local languages. The HRU should work more closely with civil society, especially outside Dili, establish information centers in each district on human rights with documents accessible by everyone, and develop a pool of East Timorese human rights trainers and educators across the country.

After the end of UNMISSET's mandate, a UN Human Rights presence in East Timor should continue, to perform the tasks listed above and to assist civil society, Parliament and Government with training and information on international human rights standards, procedures and conventions.

### **Conclusion**

After four years of massive UN presence in East Timor, some lessons learned have been applied here, while others will improve the future missions elsewhere.

However, the United Nations has not yet finished the task it came to East Timor to do. East Timor is now politically independent, but dependencies caused by past and current international ineffectiveness still abound. If the international community intends to keep its promises, an international presence will be needed in East Timor after June 2004. However, without the significant changes discussed above, the presence would be a waste of time and money.

Many in the United Nations community think of East Timor as one of the organization's great success stories. But if that success is to be more than mere mythology, many adjustments and much work remains to be done.

Thank you for your support for East Timor since 1999, and for your attention to our suggestions. Over the past three years our institute has reported on many of these issues, and the reports are available on our web site at [www.etan.org/lh](http://www.etan.org/lh). As we continue our monitoring and reporting, future reports will also be on that site.

We would be glad for the opportunity to discuss or provide additional information on any of these subjects.

Sincerely,



Ines Martins, Coordinator

## Editorial: Military Operation in Aceh *(continued from back page)*

schools, 224 homes, 11 offices, three public facilities, five bridges and 62 cars. As the death toll mounted, Indonesia continued and increased its military operation, adding impressive code names as if to reach out such as “Operation Dagger Awareness” (*Operasi Sadar Rencong*) and “Operation Love Meunasah” (*Operasi Cinta Meunasah, a district of Aceh*). They wrap their military forces in the pretense that they are working for the community, although almost every one knows that this is just a cover story for an escalating military operation.

The operations are very similar to the military operations that were applied in East Timor, like Operation *Seroja*, Operation *Komodo* and others that repressed civil society. Almost every day the community experienced abuses, kidnapping, rapes and even sadistic murders perpetrated by TNI/POLRI. The Indonesian military leaders who are now leading the military operation in Aceh previously perpetrated crimes against humanity in East Timor. Kiki Syahnakri, Tono Suratman, Timbul Silaen, Adam Damiri and other military commanders were the masterminds of these crimes. As we predicted, they all were let off by the Jakarta Ad-Hoc tribunal, proving that this tribunal is incapable of achieving justice for the victims in East Timor.

War in Aceh has now been officially declared via Presidential Decree No. 28/2003. The TNI Commander in Chief requested additional funding of Rp1.7 trillion (\$200 million) for six months of military operations in Aceh from the People’s Representative Council (DPR) RI (*Kompas*, 13 May). Indonesia is in an economic crisis, and this budget is huge, especially considering that there are only 30,000 soldiers in Aceh. However, it may not be enough for the huge supply of war equipment in Aceh, especially since much of the money disappears into officers’ pockets.

The people’s resistance in Aceh has grown as a reaction against economic exploitation by the central government, which uses the military as its instrument. The policies, political actions and economy of the central government are not seen as benefiting the people of Aceh, and the central government uses the military to press the local community to accept its policies. In reality, that pressure encourages the Aceh community to resist further.

Many soldiers are profiting from the Aceh operation. A common saying is that they “depart for Aceh carrying an *M-16*, (automatic rifle) and return carrying *16-m* (sixteen billion rupiah, or \$1.9 million). They obtain that money in many ways, including terrorizing businessmen and bureaucrats by accusing them of helping GAM. Many, feeling it is better to lose money than their lives, pay off the soldiers.

There are at least three military interests visible in Aceh: careers, business and the justification of TNI’s existence. Aceh, especially during the DOM era, has become a “military training project,” where the number of Acehnese people killed indicates the grade received from that training. We base this statement on the correlation between promotion and the location of duty in Aceh. Those who were based in KOREM 011 Lilawangsa usually gain an increase in rank, eventually leading to an important civilian position in government.

According to documentation from Community Solidarity for Anti Corruption (Samak), The Aceh Provincial Government has never been accountable to the community or even the local Regional People’s Representative Council (DPRD) for aid money. This includes humanitarian aid from foreign donors, Mines and Energy (*Pertamina*) and the State Income and Spending budget, which is expected to total Rp1.18 trillion (\$140 million).

### Conclusion

What is occurring in Aceh now should stimulate us all to find ways to stop the sadistic and savage policies of TNI/POLRI. We know that the Indonesian military leaders responsible for the military operation in Aceh are the same leaders who committed serious crimes against humanity in the land of Lorosa’e in 1999. The world knows this, but the world acts as if it were deaf and blind. TNI and POLRI not only massacre people in Timor Lorosa’e and Aceh, but also in many places including Maluku and West Papua.

International action is essential to stopping TNI/POLRI repression against the people of Aceh, including an International Criminal Tribunal for crimes they committed in East Timor. It is also important for the United States, the United Kingdom and other suppliers of weapons and training to Indonesia’s military to end their complicity with these massive human rights violations.

The independent government of East Timor is in a difficult position. On the one hand, the small new state is vulnerable to Indonesian intervention, and is economically dependent on trade and other relations with its former occupier. But on the other hand, East Timor is now a democracy, with freedom of peaceful expression guaranteed to all, and a Constitutional duty (Article 10) to “extend its solidarity to the struggle of all peoples for national liberation.” East Timor’s people fought hard for their freedom, and activists (and eventually governments) worldwide condemned Indonesian human rights violations here. East Timor’s independence and democracy came at a great price, and should not be sacrificed to forces that are opposing the growing democratic movement in Indonesia at the same time they are increasing repression against the people of Aceh. ❖



# Editorial: Military Emergency in Aceh

On 21 May 2003, the Indonesian military launched a massive assault on Aceh, with devastating consequences not only for pro-independence fighters, but for the entire population. Following the failure of peace talks and the Indonesian government's record of disregard for human rights, many fear that the operation could continue for a long time. Multinational oil companies, especially ExxonMobil from the United States, acquiesce in repression when it protects their economic interests. Furthermore, leading officers in Indonesia's military (TNI) have never been held responsible for their crimes against humanity in East Timor, and TNI continues to receive training and weapons from many countries. It is hardly surprising that they expect to commit crimes against humanity with impunity once again.

In 1873, the Acehnese began a 40-year war against the Dutch Colonialists, and Aceh was never conquered. Although 60,000 Acehnese and Dutch people were killed, the death toll was not high enough for the Netherlands to subdue its most ferocious would-be colonial subjects.

During the past fifty years, Aceh has often been a "special" region for the Indonesian government, subjected to repeated military operations:

- ✖ 1953-1961 (DI/TII);
- ✖ 1977-1982 (Operation Awareness and Siwah)
- ✖ 1989-1998 Red Net Operation (*Operasi Jaring Merah*) a Regional Military Operation (DOM) in Aceh
- ✖ 1999 (Operation Authority)
- ✖ 1999-2000 (OSR I/II)
- ✖ 2000-2001 (OCM I/II)
- ✖ 2001-today *Opslihkam* (Operation Repair Security).

In Aceh people are crying because children have lost their parents, wives have lost their husbands and vice-versa; the rotting smells of bodies and ammunition smoke make the aroma of war in Aceh even more stinging and sad. The Indonesian military actions and policies in Aceh remind us of the 7 December 1975 invasion and occupation of East Timor. As seen through the media, this occupation appears to be recurring in Aceh.

The current operation began after talks between the Indonesian government and GAM, facilitated by the Henry Dunant Centre, reached a stalemate. The Indonesian government immediately strengthened its defense line via a Coordinated Military Operation Campaign by increasing its military (TNI) and police (POLRI) strength. These united forces are supported with high-tech military equipment including machine guns, amphibious tanks, warships and a squadron of fighter planes. As we observe the terrifying military and police actions in Aceh, we recall what Indonesia did in East Timor for 24 years.

Many people suspect that this military operation is a

tactic to terrorize the people of Aceh, enabling TNI/POLRI to achieve its economic and political objectives. The people's fear gives an opportunity for TNI/POLRI to strengthen their rule over civilians and to justify cruel and horrifying violations of human rights.

We urge the Indonesian government to learn from the results of its military actions in East Timor and gather the political courage to implement the view of The People's Advisory Assembly (MPR) RI No. IV/1999 G "*Solve the case of Aceh in a way that upholds justice and welfare by implementing investigation and truthful courts for the violators of human rights, both during and after the Regional Military Operation.*" The Indonesian government should solve the matter of Aceh peacefully, without using military force.

The current military operation began on 21 May 2003. After the first 45 days, POLRI Headquarters reported 115 civilians dead, 80 wounded, and 69 missing. POLRI, which often labels civilians as GAM resistance fighters, also noted that 112 GAM people were killed, four wounded, ten missing and 113 arrested, along with 146 others surrendering. POLRI's own losses were nine dead and 44 wounded, and they reported the burning of 518

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## What is La'o Hamutuk?

*La'o Hamutuk* (*Walking Together* in English) is an East Timorese non-governmental organization that monitors, analyzes, and reports on the principal international institutions present in Timor Lorosa'e as they relate to the physical, economic, and social reconstruction and development of the country. *La'o Hamutuk* believes that the people of East Timor must be the ultimate decision-makers in this process and that this process should be democratic and transparent. *La'o Hamutuk* is an independent organization and works to facilitate effective East Timorese participation. In addition, *La'o Hamutuk* works to improve communication between the international community and East Timorese society. *La'o Hamutuk's* East Timorese and international staff have equal responsibilities, and receive equal pay and benefits. Finally, *La'o Hamutuk* is a resource center, providing literature on development models, experiences, and practices, as well as facilitating solidarity links between East Timorese groups and groups abroad with the aim of creating alternative development models.

*In the spirit of encouraging greater transparency, La'o Hamutuk would like you to contact us if you have documents and/or information that should be brought to the attention of the East Timorese people and the international community.*