

The 40-year battle over Timor's oil

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Paul Cleary – *The Australian* - 4 December 2013

OIL and espionage have gone hand in hand during the past four decades of contestation over the lucrative petroleum resources of the Timor Sea, so the latest revelations should come as no surprise, least of all to East Timor's government.

Despite protests from the country's leaders after learning Australia had bugged the prime minister's office, East Timor operated on the clear understanding it was being spied on during the negotiations with Australia that began in 2000 and ended with the signing of the Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS) in January 2006.

Former US ambassador Peter Galbraith was one of the first advisers to arrive in Dili to assist the government with the negotiations, which began when Dili was still a smoking ruin after Indonesia's scorched-earth departure.

As the son of economist John Kenneth Galbraith, Peter had grown up with the Kennedys in the 1950s. He also had intimate knowledge of Western governments' intelligence-gathering activities and advised Timorese leaders that their communications would be intercepted.

This was why staff protected documents with passwords. One of those used was ROMIT -- Timor spelled backwards. And it was why the country's first prime minister, Mari Alkatiri, used to turn up the television in his office while discussing sensitive matters.

Timor Sea oil aroused the interest of Australia's diplomats in the late 1960s, when the Portuguese administration gave a US company, Oceanic Exploration, a huge concession over the Timor Sea that extended out to the median line between Timor and Australia.

Then Woodside discovered the Greater Sunrise field in 1974, thus confirming that the region had potentially vast petroleum resources.

Greater Sunrise, which was the subject of the negotiations that sparked the spying allegations, is considered by petroleum engineers to qualify as a "world class" resource that would require billions of dollars to develop, although its five trillion feet of gas makes it one-third the size of Woodside's latest discovery, the Browse field.

Nonetheless, Australia's ambassador to Indonesia, Richard Woolcott, wrote in an August 1975 cable that Australia potentially would get a much better agreement over the Timor Sea with an Indonesia-controlled East Timor than an independent East Timor or with Portugal as the colonial power. "This could be much more readily negotiated with Indonesia by closing the present gap than with Portugal or an independent Portuguese Timor," he wrote.

Woolcott was referring obliquely to the fact Australia had secured a favourable seabed boundary with Indonesia in 1972 that went two-thirds of the way towards the island of Timor, instead of following the median line, as Portugal had claimed.

Australia argued that the boundary should be located closer to Timor because this reflected the end of Australia's continental shelf, an argument that later was proved by geologists and maritime lawyers to be erroneous.

The negotiations for the 1972 treaty should have involved three countries, but because Portugal as the colonial power was left out, the treaty left a gap opposite Timor, which became known as the Timor Gap.

When Indonesia invaded East Timor four months after Woolcott wrote that cable, Australia's diplomats hoped they would now be able to close the Timor Gap and secure the lion's share of the Timor Sea's oil riches.

Indonesia, however, realised it had blundered by accepting Australia's continental-shelf argument. International law had been muddled at the time it negotiated the 1972 treaty, but by the late 1970s Indonesia realised it had a legitimate claim to a median line.

The result of the negotiations that began on Valentine's Day 1979 and ended a decade later with the signing of the Timor Gap Treaty was a coffin-shaped compromise that had three "zones of co-operation". Each offered different rates of revenue-sharing, with the result being a 50-50 split.

Espionage was a prominent feature of those negotiations as well. In their book *Oyster*, a definitive history of the Australian Secret Intelligence Service that has now been translated into Chinese, Brian Toohey and William Pinwill argue that Australia's spies were able to obtain the negotiating papers of the Indonesian delegation ahead of each meeting.

In fact, when asked to nominate its achievements as an organisation, ASIS listed the obtaining of those highly secretive papers as one of its real success stories.

The papers would have been obtained by ASIS agents who cultivated potential conduits with bribes. Indeed, senior members of East Timor's negotiating team believed one of their members was turned by ASIS during the 2004-05 negotiations over Greater Sunrise.

The influential adviser went from advocating a very strong stand by East Timor in 2004 to urging the government to capitulate and accept a low settlement that was a fixed-dollar amount.

The latest saga in this long history began five months after East Timor voted overwhelmingly for independence in August 1999.

In January 2000, a delegation of high-level Australian officials flew to war-torn Dili for a mission of the utmost importance to Australia's perceived national interest.

Dili swarmed with military personnel and equipment but -- in the wake of the militia violence following the August 30, 1999, ballot -- it remained a ghost town.

Most of the locals were camped up in the mountains to which they had fled.

Amid the devastation, the delegation landed in Dili with the objective of convincing the Timorese leadership they should accept in full the oil treaty the Australian government had spent 10 years painstakingly negotiating with Indonesia.

Foreign minister Alexander Downer believed the Timorese would honour the Timor Gap Treaty, which proved to be an unrealistic assumption given that the treaty came about as a result of the unlawful occupation of Timor.

Led by veteran diplomat Michael Potts, the delegation of officials from the Department of Foreign Affairs and Trade, and the departments of Attorney-General and Industry, booked a conference room on the Olympia cruise ship. This was probably the only place in Dili at the time with the facilities to hold such a meeting.

With the aid of laptops and a PowerPoint projector, Potts and his team ran through the details of the Timor Gap Treaty in deadpan, humourless style. In the heat and humidity of the wet season, the red-faced and bespectacled Potts looked very much the hot and bothered colonial official from a bygone era.

He urged the Timorese to substitute the name Indonesia with that of East Timor. In the audience were Alkatiri, who had returned from Mozambique and would later take a cabinet position in the UN Transitional Administration in East Timor, and Jose Ramos-Horta, who was vice-president of the umbrella independence group CNRT and later would become minister for foreign affairs and prime minister.

At one point during the presentation, a gruff, chain-smoking international lawyer working for the UN, Miguel Galvao-Teles, stood up and told the delegation it had omitted to explain to the Timorese just how unfavourable the 1989 Timor Gap Treaty was when compared with East Timor's entitlement under international law. East Timor would be substantially short-changed by signing on to this treaty, he told the gathering.

Leaving aside rights, the economic implications of this proposal were disturbing to the Timorese. The Australian government's offer would have set up East Timor as a beggar state dependent on aid, a scenario outlined by Downer to journalists during a discussion one even in Bali after a meeting with Indonesian president BJ Habibie.

Oil prices at the time were hovering at about \$US20 a barrel; the country's only significant source of revenue for the next 20 years would have amounted to about \$US50 million a year or about \$US50 a head of population. It afforded the Timorese a mere 20 per cent slice of the oil and gas fields that lay in their half of the Timor Sea, and which under an international maritime boundary would belong to the Timorese.

East Timor's leadership rejected Australia's proposal.

The arrival of Galbraith after this meeting brought American righteousness to East Timor's pursuit for justice in the Timor Sea. He infuriated his Australian adversaries to the point where the Howard government tried to have him sacked from his role with the UN in East Timor, and from his teaching position with the National War College in Washington. The Australian ambassador, Michael Thawley, a former adviser to Howard, told East Timor adviser Jonathan Morrow that he had spent most of his time in Washington trying to "get rid of Galbraith".

Australia stuck to its 50 per cent (effectively 20 per cent) offer for the next 18 months, but as tension reached a climax in June 2001, at a meeting in Parliament House in Canberra, Downer asked Ramos-Horta to step outside. In the corridor, Downer said he would agree to East Timor's demand for a 90 per cent share, but the settlement would cover only one of the areas of the 1989 Indonesia-Australia Timor Gap Treaty.

East Timor was forced to make significant concessions. What became known as the Timor Sea Treaty dropped the northern and southern zones of the Zone of Co-operation with Indonesia and excluded potentially richer resources to the east and west of the treaty area. East Timor got a 90 per cent share of the revenue from the treaty area, but only 18 per cent of Greater Sunrise. The deal was meant to be an interim arrangement. It had been negotiated by UNTAET, and the treaty said explicitly that it would cease to exist when a permanent maritime boundary was agreed between the two countries. But Australia hoped the treaty would be the final settlement in the Timor Sea.

On Independence Day on May 20, 2002, East Timor put its bid for a fair settlement into effect when, at the East Timor parliament--a building renovated with Australian aid money--the new government tabled the Maritime Zones Act, which expressed the country's right under international law to a maritime jurisdiction. Under the treaty, a separate agreement was needed for the Sunrise field because it straddled the treaty area.

At a meeting in November 2002, Downer, pressing East Timor to accept an 18 per cent share of Sunrise, thundered: "We don't have to exploit the resources. They can stay there for 20, 40, 50 years. We don't like brinkmanship. 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."

But East Timor continued pressing Australia for justice, and this was delivered only when ordinary Australians drove home the message of a "fair go" to the Howard government.

Instrumental in the settlement of a 50-50 deal on Greater Sunrise was a slightly amateurish, though effective, advertising campaign run by Melbourne businessman Ian Melrose, who had latched on to the issue after reading a newspaper article about a 12-year-old Timorese girl dying of worm infestation. Her life could have been saved with a 10c tablet. One of the ads featured World War II veterans who said they owed their lives to the Timorese.

But the dispute turned into a major problem for East Timor's first government.

When Woolcott launched a discussion paper on the dispute by Jesuit priest Frank Brennan, he said East Timor was a fragile country and that Australia must get behind it to "consolidate Timor-Leste's independence and nurture its fragile institutions".

Instead, the fight for the Timor Sea resources proved to be a huge distraction for the Dili government and culminated in the 2006 riots that pushed the country to the brink of civil war.

Australia's aggressive conduct in the dispute also created a big opportunity for China and other regional powers to form close and potentially lucrative links with a country that should be Australia's best friend.

Paul Cleary was an adviser to the prime minister of East Timor during the Timor Sea negotiations. His book on these events is Shakedown: Australia's Grab for Timor Oil.