Australia's Thieving From The Poorest Neighbour: Timor-Leste

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Timor-Leste, officially named under the Constitution the República Democrática de Timor-Leste in Portuguese and the República Demokrátika Timor-Leste in Tetum, the other local language, is a country in Southeast Asia. It comprises the eastern half of the island of Timor, the nearby islands of Atauro and Jaco, and Oecusse, an exclave on the north-western side of the island, within Indonesian West Timor. The country's size is about 15,410 square kilometres. The population is about 1,143,667, especially concentrated in the area around Dili, the capital.

Timor-Leste is surrounded at West, North and East by Indonesia. To the South is Australia.

East Timor was colonised by Portugal in the sixteenth century, and was known as Portuguese Timor until Portugal's decolonisation of the country.

During the second world war the Japanese occupied Dili, and the mountainous interior became the scene of a guerrilla campaign, known as the 'Battle of Timor'. Waged by Allied forces and East Timorese volunteers against the Japanese, the struggle resulted in the deaths of between 40,000 and 70,000 East Timorese. Following the end of the war, Portuguese control was reinstated.

The decolonisation process instigated by the 1974 Portuguese revolution saw Portugal effectively abandon the colony. A civil war between supporters of East Timorese political parties, the Revolutionary Front for an Independent East Timor - *Fretilin* and the Timorese Democratic Union - U.D.T., broke out in 1975 as the U.D.T. attempted a *coup* that *Fretilin* resisted with the help of local Portuguese military. Independence was unilaterally declared on 28 November 1975. The Indonesian government was fearful of an independent, possibly 'communist', state within the Indonesian archipelago, and at the height of the cold war, 'western' governments were supportive of Indonesia's position. On 7 December 1975 the Indonesian military launched a full-scale invasion of East Timor, having received 'the green light' from visiting United States president Gerald Ford and secretary of state Henry Kissinger the day before. Indonesia declared East Timor its 27th province on 17 July 1976 with the name of Timor Timur. The United Nations Security Council opposed the invasion, and the territory's nominal status in the U.N. remained "non-self-governing territory under Portuguese administration."

Indonesia's occupation of East Timor was marked by violence and brutality. An unsuccessful campaign of pacification followed over the next two decades.

A detailed statistical report prepared for the Commission for Reception, Truth and Reconciliation in East Timor cited a minimum bound of 102,800 conflict-related deaths in the period 1974-1999, namely, approximately 18,600 killings and 84,200 'excess' deaths from hunger and illness. The East Timorese guerrilla force *Falintil* fought a campaign against the Indonesian forces from 1975 to 1999. The 1991 'Dili massacre' was a turning point for the independence cause internationally, and an East Timor solidarity movement grew in Portugal, Australia and the United States.

In 1999, following the United Nations-sponsored act of self-determination, Indonesia relinquished control of the territory, and Timor-Leste will eventually become the first new sovereign state of the 21st century on 20 May 2002. After independence Timor-Leste became a member of the United Nations and of the Community of Portuguese Language Countries.

On 30 August 1999 an overwhelming majority of the people of Timor-Leste had voted for independence from Indonesia. However, in the next three weeks, anti-independence Timorese militias - organised and supported by the Indonesian military - commenced a large-scale, scorched-earth campaign of retribution. The militias killed approximately 1,400 Timorese and forcibly pushed 300,000 people into western Timor as refugees. Most of the country's infrastructure,

including homes, irrigation systems, water supply systems, and schools, and nearly 100 per cent of the country's electrical grid were destroyed.

On 20 September 1999 Australian-led peacekeeping troops deployed to the country and brought the violence to an end.

In 2006 internal tensions threatened the new nation's security when a military strike led to violence and a breakdown of law and order. At Dili's request, an Australian-led International Stabilisation Force - I.S.F. deployed to Timor-Leste, and the U.N. Security Council established the U.N. Integrated Mission in Timor-Leste - U.N.M.I.T., which included an authorised police presence of over 1,600 personnel. The I.S.F. and U.N.M.I.T. restored stability, allowing for presidential and parliamentary elections in 2007 in a largely peaceful atmosphere. In February 2008 a rebel group staged an unsuccessful attack against the president and prime minister. The ringleader was killed in the attack, and most of the rebels surrendered in April 2008. Since the attack, the government has enjoyed one of its longest periods of post-independence stability, including successful 2012 elections for both the parliament and president. In late 2012 the U.N. Security Council voted to end its peacekeeping mission in Timor-Leste and both the I.S.F. and U.N.M.I.T. departed the country by the end of the year.

Timor-Leste has a market economy which used to depend upon exports of a few commodities such as coffee, marble, oil and sandalwood. The lower middle-income economy grew by about 10 per cent in 2011, and at a similar rate in 2012 and 2013.

About 37.4 per cent of the country's population lives below the international poverty line which means living on less than US$ 1.25 per day. About 50 per cent of the population is illiterate. It continues to suffer the after-effects of a decades-long struggle for independence against Indonesian occupation, which severely damaged the country's infrastructure and killed at least one hundred thousand people. The country is placed 134th on the Human Development Index. Nonetheless it is expected to have reached the sixth largest percentage growth in Gross Domestic Product in the world for 2013.

Timor-Leste now has revenue from offshore oil and gas reserves, but little of it has gone to develop villages, which still rely on subsistence farming.

The country was ranked 169th overall and last in the East Asia and Pacific region by the *Doing Business 2013* report by the World Bank.

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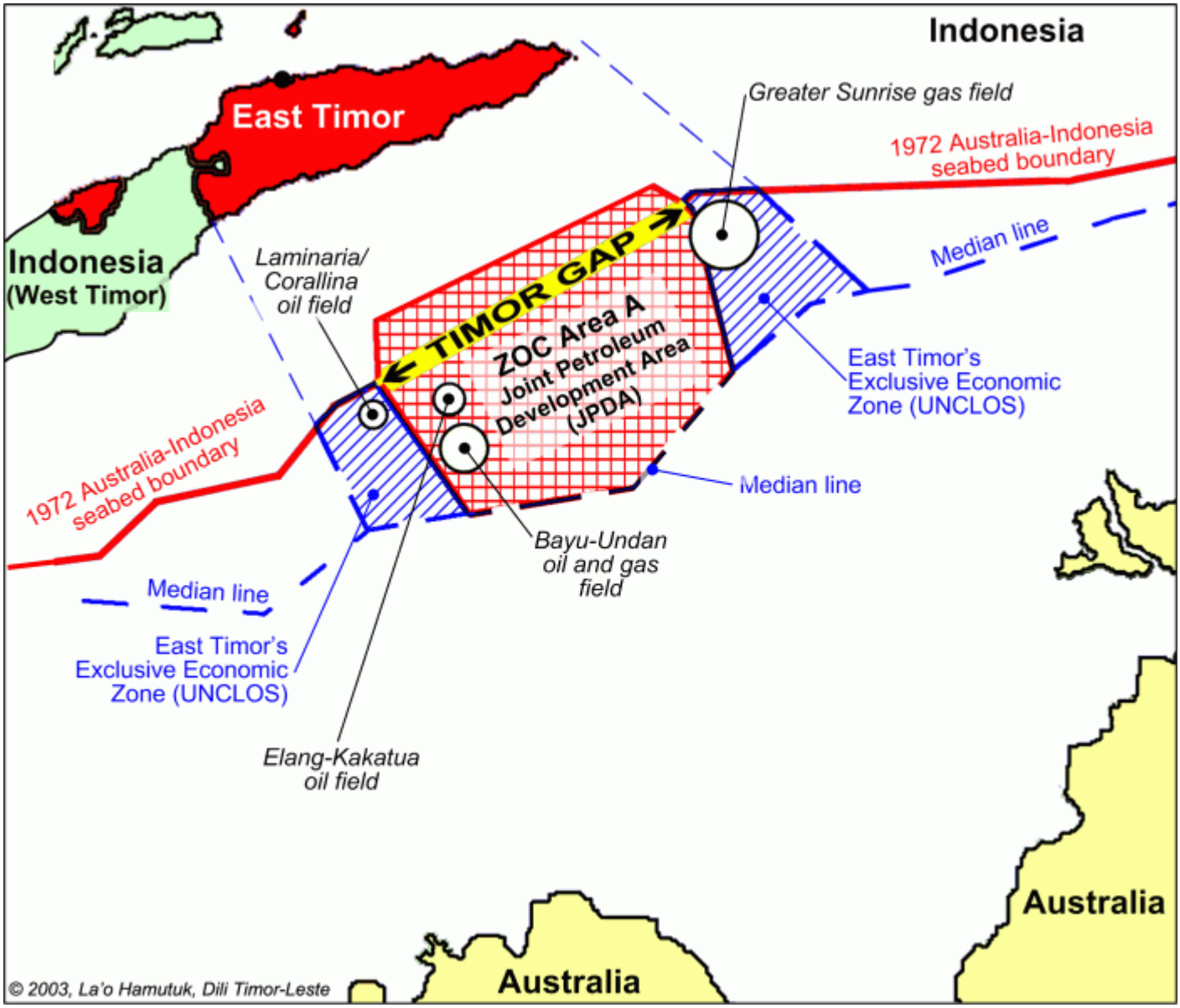
Timor-Leste is blessed - or perhaps condemned - because of large deposits of oil and natural gas under the Timor Sea. The on-shore deposits, including oil and gas seeps which have been collected or flared for over a century, are less-well surveyed and probably smaller than those under the sea, where war did not interfere with oil exploration. Many of the offshore fields are in disputed territory; the following map and chart lists the major known fields which should belong to Timor-Leste under current international legal principles.



MAP OF OIL AND GAS RESERVES

The Portuguese colonial administration granted concessions to Oceanic Exploration Corporation to develop petroleum and natural gas deposits in the waters southeast of Timor. However, this was curtailed by the Indonesian invasion in 1976. The resources were divided between Indonesia and Australia with the Timor Gap Treaty in 1989. East Timor inherited no permanent maritime boundaries when it attained independence. A provisional agreement - the Timor Sea Treaty, signed when East Timor became independent on 20 May 2002 - defined a Joint Petroleum Development Area - J.P.D.A. and awarded 90 per cent of revenues from existing projects in that area to Timor-Leste and 10 per cent to Australia.

The 2002 Timor Sea Treaty is an *interim* agreement, that is without prejudice to the position of either country on their maritime boundary claims. Development of the oil and gas resources, including the major Bayu-Undan field, is proceeding. Revenues have already started flowing, and it is estimated that Timor-Leste could earn as much as US$ 15 billion in revenues from the Bayu-Undan project alone.

The International Unitisation Agreement for Greater Sunrise - I.U.A., signed by Australia and Timor-Leste on 6 March 2003, provides the secure legal and regulatory environment required for the development of the Greater Sunrise gas reservoirs. Under the Timor Sea Treaty, Greater Sunrise is apportioned on the basis that 20.1 per cent falls within the J.P.D.A. and the remaining 79.9 per cent falls in an area to the east of the J.P.D.A. in which Australia regulates activities in relation to the resources of the seabed and subsoil. This apportionment reflects the geographical location of the resources. The I.U.A. unitises the reservoirs on the same basis. Legislation implementing the I.U.A. is in place. Due to the agreed resource split in the J.P.D.A, under the I.U.A. Timor-Leste would receive tax revenues from 18.1 per cent of the Greater Sunrise resource and Australia would receive tax revenues from 81.9 per cent.

The Certain Maritime Arrangements in the Timor Sea - C.M.A.T.S. Treaty, signed on 12 January 2006, is a further *interim* agreement, that is without prejudice to the position of either country on their maritime boundary claims. The principal aim of the treaty is to allow the exploitation of the Greater Sunrise gas reservoirs to proceed while suspending maritime boundary claims for a significant period and maintaining the other treaty arrangements in place.

Australia and Timor-Leste brought the 2003 I.U.A. and the 2006 C.M.A.T.S. Treaty into force on 23 February 2007.

The treaties establish a framework for the exploitation of the Greater Sunrise gas and oil resources and are intended to see the equal sharing of upstream government revenues flowing from the project. The C.M.A.T.S. Treaty represents an opportunity to underpin further the income and development of one of Australia's closest neighbours, while at the same time putting on hold the Parties' claims to jurisdiction and maritime boundaries in the Timor Sea for fifty years.

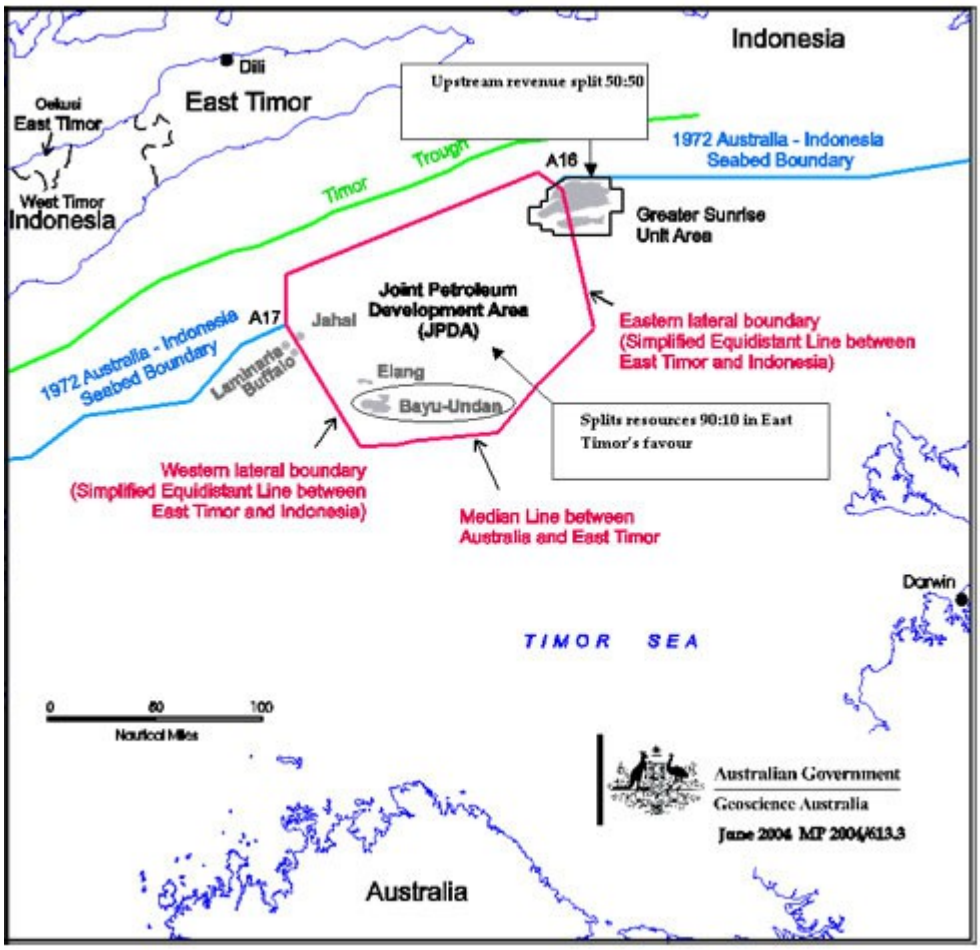
While the formal apportionment of Greater Sunrise under the I.U.A. remains the same, Australia will share equally - 50:50 - the upstream tax revenues from the resource. The Greater Sunrise project could result in transfers of revenue to Timor-Leste of as much as US$

4 billion over the life of the project. The exact benefit to Timor-Leste and Australia will depend on the economics of the project.

Both Australia and Timor-Leste are bound by the Treaty to refrain from asserting or pursuing their claims to rights, jurisdiction or maritime boundaries, in relation to the other, for 50 years. The two countries have undertaken not to commence any dispute settlement proceedings against the other which would raise the delimitation of maritime boundaries in the Timor Sea. Consistent with the C.M.A.T.S. Treaty and associated side-letters, Australia will continue regulating and authorising petroleum activities outside of the Joint Petroleum Development Area and south of the 1972 Australia-Indonesia seabed boundary.

Other initiatives established by the C.M.A.T.S. Treaty include: an independent assessment process at the request of either Party to review the reconciliation of the revenue sharing; Timor-Leste being able to exercise water-column - fisheries jurisdiction within the J.P.D.A.; and the establishment of a Maritime Commission to constitute a focal point for bilateral consultations on maritime matters of interest to the Parties, including on maritime security, the protection of the marine environment and management of natural resources.

The Australian Department of Foreign Affairs and Trade offers the following view of the respective position of the two countries: map of Timor Sea Area.



The Timor-Leste Petroleum Fund was established in 2005, and by 2011 it had reached a worth of US$ 8.7 billion. Timor-Leste is labelled by the International Monetary Fund as the "most oil-dependent economy in the world." The Petroleum Fund pays for nearly all of the government's annual budget, which has increased from US$ 70 million in 2004 to US$ 1.3 billion in 2011, and US$ 1.8 billion in 2012.

A 2005 agreement between the governments of Timor-Leste and Australia mandated that both countries put aside their dispute over maritime boundaries and that Timor-Leste would receive 50 per cent of the revenues from the resource exploitation in the area - estimated at AUS$ 26 billion over the lifetime of the project - from the Greater Sunrise development.

The Greater Sunrise Project is a pair of good-sized gas and condensate fields - the Sunrise and Troubadour - discovered way back in 1974 and a combination of buoyant energy

pricing and new production technologies means their time for successful commercialisation should be dawning.

Global oil interests certainly thinks so.

The Sunrise partners, led by operator Woodside - which owns 33.44 per cent of the project - along with ConocoPhillips - with 30 per cent, Shell - with 26.6 per cent and Osaka Gas - 10 per cent, have been ready for quite some time to spend the billions necessary to extract and process the gas wealth, and have targeted late 2016 for production.

But Sunrise has become mired in a sink of misplaced aspirations and misunderstanding born of good intentions and an understandable national guilt.

The Sunrise and Troubadour discoveries sit at the northern edge of Australia's continental shelf, some 450 kilometres northwest of Darwin but about 150 kilometres southeast of Timor-Leste, in water depths from 100 metres to more than 600 metres in the Bonaparte Basin.

The Greater Sunrise contracts between Woodside - and its joint venture partners - and the governments of Timor-Leste and Australia were signed in 2003, replacing contracts with Australia and Indonesia during the illegal Indonesian occupation.

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Enter Woodside.

Woodside Petroleum Limited calls itself Australia's largest independent oil and gas company. It is, in fact, much more than that.

The presence of oil in and around Timor had always been known - seeps of tarry liquid and vents of gas coming out of the tortured geology of the island's south coast. For decades, these shows of petroleum had drawn adventurous explorers, but each tantalising hint of petroleum along the hills and beaches led to disappointment. Then, in the 1960s, better provided geologists began looking at the cyclone-swept sea which stretches towards Australia - applying new technologies such as aeromagnetic and seismic surveys.

Joining the medium-sized Burmah Oil, which had started in Assam and Burma during the British Raj, and Anglo-Dutch Shell, was a small Australian exploration company named Woodside. Originally incorporated under the name of Lakes Entrance, a small town in Gippsland near the Bass Strait oil fields, the site of its first exploration, Woodside had since turned its attention to Australia's north-western waters.

In the 1960s Woodside and its partners were exploring at the farthest limits of water depth for oil development, and in potentially contested jurisdictions. At that time Australia had no agreed maritime boundary with its northern neighbour Indonesia, which had been formed from the former Dutch East Indies and Portuguese Timor. Nevertheless, Australia made a claim to the seabed which extended to the southern edge of the so-called Timor Trough, a valley some 3,000 metres deep in a sea generally 100 to 600 metres deep. The argument was based on the alleged weight of geological opinion that this trench, much closer to the Timor coast than to that of Australia, marked the limit of the Australian continental plate.

Western Australia and the Northern Territory awarded leases under this ambit until 1967, when then Prime Minister John Gorton's Coalition government in Canberra asserted federal control of offshore oil development through the *Petroleum (Submerged Lands) Act*. The oil explorers pushed on, both offshore in the Timor Sea and on the island itself, through their affiliates Timor Oil Limited in Portuguese Timor and International Oil Limited in the Indonesian half of the island. Australia's 'intelligence community' maintained a close interest, with at least two former officers taking up positions within this clutch of companies. But the main game was offshore. "By the beginning of the 1970s," noted a 2003 report by the United Nations Economic and Social Commission for Asia and the Pacific, "Burmah Oil considered the entire Timor Sea to be prospective for hydrocarbons."

Now, as the largest operator of oil and gas in Australia, Woodside produces around 900,000 barrels of oil equivalent each day from a portfolio of facilities which it operates on behalf of some of the world's major oil and gas companies.
It has been operating its landmark Australian project, the North West Shelf, for almost thirty years and it remains one of the world's premier liquefied natural gas facilities.

Woodside now operates six of the seven liquefied natural gas processing trains in Australia, helping to meet the demand for cleaner energy from pipeline customers in Australia and liquefied natural gas customers in the Asia Pacific region and beyond.

Woodside also operates four oil floating production storage and offloading vessels in the Exmouth Basin, North West Shelf and Timor Sea.

Woodside's international assets include deepwater production facilities in the Gulf of Mexico plus acreage in the United States, Brazil, Peru, Republic of Korea and the Canary Islands. In

2012 it expanded its international presence through conditional agreements to take equity in the Leviathan gas field in offshore Israel and exploration acreage in offshore Myanmar.

Today, Woodside is Australia's largest publicly traded oil and gas exploration and production company and one of the country's most successful explorers, developers and producers of oil and gas.

With registered office in Perth, Western Australia, Woodside has offices in Broome and Karratha, Western Australia, Houston, Texas, Seoul, Beijing, Tokyo and, of course, Dili, the capital of Timor-Leste. In more ways than one, Woodside has been part of the Western Australian 'community' since 1963.

And it shows.

The Chairman of the board of directors belongs to one of the 'Establishment' families in Western Australia. He was for 22 years to 2005 managing director of Wesfarmers Limited, one of the largest Australian conglomerates, one of Australia's largest public companies, one of Australia's largest retailers and, with more than 200,000 employees across the country, the largest private employer in Australia. Woodside's chairman moved to the petroleum industry as a geologist working on the North West Shelf, in Indonesia and in the United States. He was almost concurrently a non-executive director of BHP Billiton Limited from 1995 to 2005, and of BHP Billiton Plc between 2001 and 2005, chair first and then director of a huge company which provides financial advisory and fund management services through its subsidiaries, including leveraged private equity transactions and buy-outs and property investment management services. BHP Billiton is an Anglo-Australian multinational mining and petroleum company headquartered in Melbourne, Australia - largely the receptacle for Anglo-American's former *apartheid* money ! It is the world's largest mining company measured by 2013 revenues. As at February 2013 BHP Billiton was also the world's third-largest company measured by market capitalisation. It is one of the three behemoths to which every Australian government must pay homage since the Royal Ambush *coup* of November 1975 which dispensed of the Whitlam government. That government had other ideas as to what to do with the North West Shelf and its utilisation in the interest of all Australians. Woodside chairman is also director of one of the four Australian banks - which form a veritable cartel, a member of the J.P. Morgan International Council and, to top it all and to show a respectable connection with 'academia', chancellor of the University of Western Australia. A directorship of the Centre for Independent Studies, a solidly right-wing think-tank, completes the 'colour'.

The Chief Executive Officer and managing director was for 27 years with the ExxonMobil group in the global oil and gas business, culminating as Vice President Development Company, with responsibility for leading development and project work in Asia Pacific region. He is equally well connected with 'academia' and with Japanese business in Australia.

The other directors are: - one with significant public and private sector experience in economic policy development and analysis, chief economist of the Business Council of Australia - the 'employers' union', formerly head of economics with the Department of Treasury of the Western Australian government, and links with the International Monetary

Fund, as well as director of Wesfarmers General Insurance Limited, well connected with large corporations in insurance, and specialising in corporate responsibility; - another director is provided with years and years of experience in corporate, energy and resources law, including three years as partner in charge of the Perth office of a national law firm; - another with more than 35 years experience in corporate tax, specialising in the mining, energy and utilities sector, and a partner with a powerful world-wide accounting firm, on an off university chairs; - another director presents with an almost forty years career with Shell, including Executive Vice President, Upstream Major Projects within Shell's Projects and Technology Business, General Manager of Shell's operations in Syria and a secondment as Managing Director of Nigeria LNG Ltd.; - another director is former Executive Vice President Gas and Projects of Shell Gas and Power International BV with more than 30 years experience with Shell in Europe, Australia and Africa, from 1997 to 1999 seconded to Woodside as General Manager North West Shelf Venture and retired from Shell in June 2009; - another director is a well-experienced executive with a 34 year career with ExxonMobil involving extensive international exploration and development experience, including the Po Valley Energy Limited, an emerging oil and gas exploration and development company with an expanding portfolio of hydrocarbon assets in northern Italy. Finally, there is a specialist in petroleum and geophysics with more than 20 years experience in the oil and gas industry in various technical, operational and senior management positions, including 15 years with Schlumberger Limited.

Woodside proclaims itself "committed to a high level of corporate governance and fostering a culture that values ethical behaviour, integrity and respect. We believe that adopting and operating in accordance with high standards of corporate governance is essential for sustainable long-term performance and value creation."

Such declarations are diffusely expressed in page after page of Woodside annual reports. There is a long code of conduct, with at lest five pages devoted to provisions on anti-bribery and corruption policy, down to provision for the declaration of gifts over AU$ 50, entertainment, dealing with government officials - always with the clear assumption that corruption is overseas, pages on record keeping, application of the provisions, definitions and the specific reference to be complied with: the *Criminal Code Amendment (Bribery of Foreign Officials) Act* 1999 (Cth); the *Foreign Corrupt Practices Act* 1977 (US); the *Bribery Act* 2010 (UK); and "any other anti-corruption laws of the Commonwealth of Australia or any

State or Territory of Australia (including any applicable common law, law of equity, any written law, statute, regulation or other instrument made under statute or by any government agency), and any anti-corruption law of a country other than Australia which applies to Woodside, its business partners or third parties operating on Woodside's behalf."

One will see.

The C.M.A.T.S. Treaty was signed by Foreign Ministers Alexander Downer and Jose Ramos-Horta in Sydney on 12 January 2006, in the presence of Prime Ministers John Howard and Mari Alkatiri.

Timor-Leste ratified both C.M.A.T.S. and the International Unitisation Agreement for the Sunrise and Troubadour Fields separately on 20 February 2007, publishing the Parliamentary Resolutions on 8 March in the Official Gazette in Portuguese.

On 7 February 2007 the Australian government tabled the treaty before Parliament, and the Joint Standing Committee on Treaties began an inquiry. Submissions were invited before 16 March 2007. Although C.M.A.T.S. had already entered into force, the J.S.C.O.T. continued its inquiry and published a report in June 2007.

On 22 February 2007 the Australian Foreign Minister Alexander Downer sent a letter to the Parliamentary Joint Standing Committee on Treaties invoking the "national interest exemption" to enable the treaty to enter into force without a Parliamentary waiting period. The next day he announced that it had entered into force.

The C.M.A.T.S., the product of eight years of negotiation, had advantages and disadvantages for both countries. In summary, Timor-Leste increased its share of upstream revenues from 18 per cent to 50 per cent in return for accepting Australian sovereignty over areas east and west of the J.P.D.A., ratifying the I.U.A., and agreeing not to raise the maritime boundary question for 50 years. Many people in Timor-Leste expressed the view - and alarm - that the balance was not in Timor-Leste's favour. They continued to believe that Timor-Leste has the right to all maritime and seabed resources in the Exclusive Economic Zone.

The signatories and oil companies concerned had hoped that C.M.A.T.S. and the I.U.A. would open the way for Greater Sunrise to be exploited. The basic development plan for the project was still not settled by late 2012, with Timor-Leste holding out for a pipeline to an liquefied natural gas plant in Beacu on Timor-Leste's south coast, and the Sunrise Joint Venture - led by Woodside, with Shell, ConocoPhillips and Osaka Gas - preferring a mid-sea floating

plant.

Article 12.2(a) of C.M.A.T.S. provides that "if a development plan for the Unit Area has not been approved ... within six years after the date of entry into force of this Treaty [that is, 23 February 2013] ... either Party may notify the other Party in writing that it wishes to terminate this Treaty, in which case the Treaty [except for certain clauses] shall cease to be in force three calendar months after such notice is given." As the date neared, discussion was growing on the likelihood and consequences of such termination.

On 27 December 2012 Timor-Leste officially ratified, in Portuguese, the United Nations Convention on the Law of the Sea, and on 8 January 2013, it formally became the 165th country to accede to U.N.C.L.O.S. On the same day, Timor-Leste also became a party to the Vienna Convention on the Law of Treaties, which it had ratified in 2004.

In late January 2013 Timor-Leste officials signalled that they were likely to invoke the C.M.A.T.S. termination option, as reported by the local newspapers on 28 January. Petroleum Minister Alfredo Pires clarified his views a few days later, indicating that either Australia or Timor-Leste could withdraw from C.M.A.T.S. after 23 February, but as far as he knew, neither country had yet decided to do so.

On 7 February 2013 Australian Senators asked then Foreign Minister Bob Carr whether Australia intended to give notice of C.M.A.T.S. termination and if Australia was prepared to negotiate maritime boundaries with Timor-Leste. Senator Carr responded: "Timor-Leste and Australia freely entered into CMATS in 2007. Australia will honour the treaty. We expect Timor-Leste to do the same."

People in Timor-Leste felt unable to understand the Minister's comment, as invoking C.M.A.T.S. article 12.2 on termination would not dishonour the treaty any more than Australia did when it invoked its legal - if not moral - right to withdraw from U.N.C.L.O.S. and the International Court of Justice boundary dispute resolution processes in March 2002.

On 11 February 2013 a Timor-Leste organisation published an article in local newspapers on the 'Implications for Timor-Leste of terminating C.M.A.T.S.', and maintained its position in an interview with Radio Australia on 13 February. Many media reports on this issue on both sides of the Timor Sea were rather inaccurate or incomplete, so the same organisation prepared a briefing for local journalists on 21 February and organised a public meeting on the subject. Among the issues which seemed hard to understand are:

- There are no boundaries or borders in the Timor Sea between Australia and Timor-Leste to redraw. During the 12 years of Timor-Leste's sovereignty, Australia had never agreed to define a maritime boundary. The three agreements signed so far were about managing petroleum development and revenues. Many people in Timor-Leste and elsewhere felt that the country's struggle for independence was incomplete until its actual borders - which involve many more issues than oil and gas - were defined. In effect, Australia was seen as continuing to occupy maritime territory which would be part of Timor-Leste under a fair, legal boundary determination - prolonging illegal territorial control taken during Indonesia's illegal occupation of Timor-Leste's land.

- The C.M.A.T.S. clause allowing unilateral termination would become available if no Sunrise development plan had been formally approved by Australian and Timor-Leste regulators by 23 February 2013. A development plan is a detailed engineering and commercial analysis, much more complex than just agreeing on the basic concept of where the gas should be liquefied.

- There appeared to be a complex linkage among the Timor Sea Treaty - signed in 2002, ratified in 2003 - the Sunrise International Unitization Agreement - IUA, signed in 2003, ratified in 2007 - and the C.M.A.T.S. Treaty - signed in 2006, ratified in 2007. In brief, Timor-Leste needed the Timor Sea Treaty in 2002 so that Bayu-Undan could go ahead, but Australia refused to ratify the Timor Sea Treaty until Timor-Leste signed the I.U.A. in 2003 - which Australian Greens Senator Bob Brown termed "blackmail." Timor-Leste then declined to ratify the I.U.A., which it had signed under duress. In the C.M.A.T.S. compromise four years later, Timor-Leste ratified the I.U.A. and acquiesced with a gag rule on boundary discussions in return for 50 per cent of Sunrise upstream revenues.

- The Greater Sunrise contracts between Woodside - and its joint venture partners - and the governments of Timor-Leste and Australia were signed in 2003, replacing contracts with Australia and Indonesia during the illegal Indonesian occupation. The C.M.A.T.S. Treaty was signed in 2006 and came into force on 23 February 2007. Its

termination would not affect contracts signed five years earlier. Those contracts are unfortunately secret, but it was understood that they will be in force until at least 2037, unless the four companies and two governments agree to amend them. C.M.A.T.S. termination could be a consideration in analysing the project's risks and future prospects, but Article 27.3 of the I.U.A. says that the contractual terms for the companies "shall continue under terms equivalent to those in place under [the I.U.A.]" even if a permanent maritime boundary is decided.

- If Timor-Leste or Australia had decided to exercise its right under C.M.A.T.S. Article 12 to terminate the treaty at any time after 23 February, processes to establish a maritime boundary could resume. The C.M.A.T.S. Treaty would come back into force - restoring the 50-50 Sunrise revenue sharing - if and when Sunrise production begins in the future. It is unclear how termination of C.M.A.T.S. would affect the Timor Sea Treaty.

- Under international law, the parties to a bilateral treaty can always decide to cancel or modify the treaty. In other words, if Australia had been willing to discuss maritime boundaries at any time since 2006, both governments would have agreed to revoke the C.M.A.T.S. gag rule. The Timor Sea Treaty and I.U.A. have specific articles providing that they "may be amended or terminated at any time by written agreement between Timor-Leste and Australia," but these are unnecessary, as this principle applies to all agreements between governments, as spelled out in the Vienna Convention on the Law of Treaties.

The government of Timor-Leste was still hoping that Australia would be ready to deal fairly with its neighbour, without imposing a gag rule to bar discussion of particular topics. Timor-Leste also hoped that Australia felt bound by the rule of law - allowing courts or arbitration to settle the boundary when inherently unbalanced negotiations - due to the relative size, wealth, power and experience of the parties - are unable so to do. Timor-Leste was calling Australia to practice an often vaunted "fair go". Law - Timor-Leste remarked - exists to protect the weak from the strong and to ensure that everyone's basic rights are respected.

On 21-22 February 2013 the then Australian Minister of Resources and Energy Martin

Ferguson visited Dili, meeting with Timor-Leste Minister for Petroleum and Mineral Resources Alfredo Pires and others. The visit, as well as the pending possibility of terminating C.M.A.T.S., were the occasion for an usually large amount of misleading and uninformed coverage in the Australian and Timorese media - for example: Timor-Leste removes Australian company from gas project, East Timor risks all in oil dispute, Woodside gas deal could redraw Australia-East Timor borders.

After a cabinet reshuffle in Australia the following month, Minister Ferguson was replaced by former Woodside executive Gary Gray. Mr. Gray, the new federal resources minister, had been a 'principal strategic adviser' with Woodside from 2001 to 2007, before entering parliament.

A few months later, Labor would lose the election and a new government would come to power in Australia.

After their meeting, both ministers Ferguson and Pires declined to give specifics in public, although Mr. Pires said that Timor-Leste was still deciding whether to give notice of C.M.A.T.S. termination. He explained that the Foreign Ministries of the two countries would be the appropriate participants in such discussions, as the C.M.A.T.S. Treaty was signed in 2006 by Foreign Ministers Jose Ramos-Horta and Alexander Downer. Mr. Pires also said Timor-Leste was concerned about the long duration of the Treaty, and was considering various options, while Mr. Ferguson said that discussions would continue and Australia continued to want to work with Timor-Leste and the petroleum industry to advance Timor-Leste's development.

On 28 February 2013 *The Australian* newspaper published an opinion piece by Mr. Tom Clarke, an organiser with the Timor-Sea Justice Campaign in 2005, entitled *Australia holding back East Timor*. Clarke concluded: "The only thing standing between East Timor and what it is legally entitled to is the Australian government. Australia could and should put an end to decades of hard-nosed greed and offer to negotiate in good faith with East Timor. Permanent maritime boundaries will provide more economic certainty for both countries and for the companies seeking to exploit the oil and gas resources. But, more than this, setting permanent boundaries in accordance with international law is the right thing to do. It would also bring some closure to the Timorese people's long and determined struggle to become an independent and sovereign nation complete with maritime boundaries."

The lead editorial in the March 2013 *Petroleum Economist* magazine, entitled *Going for broke*, discussed the failure of Timor-Leste's oil revenues to improve the lives of the people.

The publication urged Prime Minister Xanana Gusmão to "be pragmatic ... and focus on ensuring Sunrise is developed and the revenues are used to underwrite the sustainable, long-term development of Timor-Leste's non-oil economy. If this does not come to pass, it is hard to avoid the conclusion that Timor-Leste is a failed state-in-waiting."

On 28 March 2013 *The Global Mail* published Hamish McDonald's comprehensive article about petroleum history between Timor-Leste and Australia, including Sunrise: *It's tiny, poor, and very possibly not going to take it anymore.*

On 23 April 2013 Timor-Leste's government formally notified Australia that it was exercising its right to arbitration under Annex B of the Timor Sea Treaty, arguing that C.M.A.T.S. should be declared invalid because Australia had conducted espionage in 2004 and did not negotiate the treaty in good faith. Although the notification had not been made public, Timor-Leste reportedly accused Australia of bugging Australian hotels and Dili government offices while Timor-Leste's negotiators were discussing their strategy. Timor-Leste named former British supreme court judge Lawrence Collins as its representative on the three-person arbitration panel. Australia would select another, and those two would select the third. Appointing the panel could take six months, and the arbitrators have another six months to issue a ruling by majority vote.

The legal issue is fraught with difficulties.

Of particular importance, the C.M.A.T.S.:

- established a tax sharing mechanism in respect of upstream revenues derived from the Greater Sunrise field - 50/50 between Australia and Timor-Leste; and
- placed a moratorium on maritime boundary claims in respect of the area comprising the Greater Sunrise field - Australia and Timor-Leste would not "assert, pursue or further by any means in relation to the other party" its claims to sovereign rights, jurisdiction and maritime boundaries for the period the C.M.A.T.S. remains in force.

Under the terms of the C.M.A.T.S., if a development plan for the Greater Sunrise field had not been jointly approved by February 2013, either party could terminate the treaty on giving three months' notice.

Since no development plan had been agreed as of such date, an observer may wonder why Timor-Leste had initiated arbitration proceedings in favour of its right of termination. This is because the C.M.A.T.S. continues to apply, notwithstanding termination, if the Greater

Sunrise field is produced at any time following such termination.

If the C.M.A.T.S. were to be held invalid, the position in respect of the Greater Sunrise field would revert to the position under the Timor Sea Treaty. Under the Timor Sea Treaty, Australia and then East Timor agreed to distribute production from the Greater Sunrise field on the basis that 20 per cent of the reserves are attributed to the J.P.D.A. - which in turn would entitle East Timor to a 90 per cent share of those reserves under the Timor Sea Treaty - and 80 per cent are attributed to Australia.

However, the invalidation of the C.M.A.T.S. would also extinguish the moratorium in respect of the mentioned maritime boundary claims. This would entitle either country to initiate a dispute as to the jurisdiction over the Greater Sunrise field.

The decision to initiate the current arbitration proceedings may well have been intended as a point of leverage to renegotiate the tax sharing mechanism under the C.M.A.T.S. To this end, there is a view that the equal distribution of revenue agreed under the C.M.A.T.S. is unfair to the Timorese. The arbitration appears to be a high-risk strategy for the Timorese since, if unsuccessful, the decision will be final and binding on the parties. In that case, the revenue sharing mechanism and the moratorium on maritime boundary claims would more than likely be the regulatory backdrop against which the Greater Sunrise field is developed.

The Australian government and media reported the notification on 3 May. On 6 May 2013 Timor-Leste Petroleum Minister Alfredo Pires explained his reasoning, and the business press reported corporate reactions.

An Australian Jesuit lawyer, Frank Brennan, a long-time supporter of Timor-Leste, visited Dili and wrote *Time to draw the line between Australia and Timor-Leste* on 13 May. The controversy was covered in as diverse places in Australia and overseas. On 23 May the Australian Broadcasting Corporation radio interviewed Timor-Leste Petroleum Minister Alfredo Pires and Australian Resources Minister Gary Gray. On 26 May Minister Pires informed local media that Timor-Leste was preparing to take Australia to an international court in April 2014, after the C.M.A.T.S. arbitration process was completed. A few days later Prime Minister Xanana Gusmão clarified that Timor-Leste would wait for Australia's response before taking court action.

On 29 May 2013 *The Australian* published an article titled *Aussie spies accused of bugging Timor cabinet* with additional information about Timor-Leste's complaint against Australia, with comments from Timor-Leste Petroleum Minister Alfredo Pires, his lawyer Bernard

Collaery, former Australian Foreign Minister Alexander Downer and others. Mr. Collaery is a former Attorney General for the Australian Capital Territory.

Australian Broadcasting Corporation News reported that then Australian Foreign Minister Bob Carr "insists that the two countries are good friends," although he declined to comment on the specifics of the case. The following day, Radio Australia carried further comments from both sides.

According to then Foreign Minister Carr Timor-Leste's accusation of Australian espionage had not damaged relations between the two countries.

Despite the fact that A.S.I.S. had broken into and bugged the Timorese cabinet rooms in 2004, everything was alright ! Yet, not so for Timor-Leste Foreign Minister, Alfredo Pires, who was charging that A.S.I.S. had breached international law and Timorese sovereignty by secretly listening during the negotiations over multi-billion-dollar oil and gas revenues.

While the Timorese people were furious, Senator Carr was insisting that the two countries are good friends. "Nothing can rupture the bonds between the people of Australia and the people of Timor Leste." he said. He added: "I am bound by convention that says that Australian government ministers don't comment on matters of security, intelligence, espionage even when what was said is plain untrue."

Mr. Collaery commented that the evidence of spying is irrefutable. "The evidence is irrefutable and Australian authorities are well aware that we are in a position to back that up." he said. And he added: "Of course, we would not have formed our international litigation team unless we knew where we were."

While Senator Carr remained positive about relations between the two countries, the Australian Greens leader Christine Milne did not share his optimism and suggested that the Australian government had some explaining to do. "I have absolutely no doubt that Timor-Leste is furious." she said. "The Coalition needs to come clean on the motivation and try and persuade anybody that there is any ability to justify it. ... I don't think there is any ability to justify it [but] let's hear what they have got to say. ... I don't think Australians are going to be very impressed to hear that there was authorised bugging of Timor-Leste. ... It certainly damages relations with our nearest neighbours and no doubt other countries will be asking: what else did the Howard government resort to in relation to our neighbour?"

Alexander Downer, the foreign minister at the time the bugging happened, said he could not

comment on security matters. And he added that, although the 2004 negotiations were 'robust', the new allegations may be about getting a better deal. "[The Timorese] want to do even better, that is human nature, but the fact is by getting into this endless dispute with the companies and also with the Australian Government they are denying themselves any revenue at all, because the project is not going ahead." he said.

In early May 2013 then Attorney-General Mark Dreyfus had confirmed that Timor-Leste was seeking to invalidate the C.M.A.T.S. treaty. Mr. Dreyfus acknowledged Timor-Leste's complaint about the unfairness of the treaty, and that in the course of negotiating this treaty back in 2004, Australian officials were aware of confidential information belonging to Timorese negotiating team. But, he added, "We can't comment further on the matter because these issues are going to be dealt with in the course of the arbitration. ... Australia has always conducted itself in a professional manner in diplomatic negotiations and has conducted those C.M.A.T.S. Treaty negotiations in good faith."

On 4 June 2013 Timor-Leste's Government issued a statement to the effect that "the overarching relationship between the two countries is and will continue to be one of deep unity, friendship and mutual respect." On the following day, Australian officials confirmed that they had not yet responded to Timor-Leste's arbitration filing. The press continued to follow the controversy, with articles in *The Economist* and *The Australian Financial Review*, as well as many in the *Independente* and other Timorese newspapers. On 19 June Australia responded, appointing U.S. law professor Michael Reisman as its arbitrator. The change of prime minister the following week was regarded as insignificant for a change of Australian maritime boundary policies, and it was thought unlikely that the September election would either. On 5 July then Australia opposition spokesperson Julie Bishop visited Timor-Leste, displaying her ignorance about the 2006 C.M.A.T.S. Treaty.

In October 2013 the Timor-Leste and Australian members of the panel selected Argentinean-born Tullio Treves, a former judge of the International Tribunal for the Law of the Sea and professor at the University of Milan, Italy as the third member and president of the arbitration panel. The three distinguished jurists would have six months from when they first convene to issue a decision, which was expected during the second quarter of 2014. The panel was to hear its first arguments on 5 December 2013 in The Hague, Netherlands.

Prior to the Australian 7 September election, its Parliament began an inquiry on Australia's relationship with Timor-Leste. Many submissions both from Timor-Leste and Australia urged

Australia to respect Timor-Leste's sovereignty regarding maritime boundaries. Differing views were offered by the Australian Attorney- General and the Resources Ministry, one academic and five oil companies. At a hearing on 21 May 2013 Australian members of Parliament and selected witnesses exchanged ideas and displayed considerable mis-information on the boundary issue, but a better perspective was expressed by another academic at the hearing the following day: "...until the maritime boundary between Timor-Leste is settled and the exploitation of resources in the Timor Sea is agreed in a mutually satisfactory way there will always be strains in the relationship. ... [T]he best way for Australia to improve its relationship with Timor-Leste would be for us to comply with international law as set out in the U.N. Convention on the Law of the Sea and to refer the question of the maritime boundary to an international tribunal, preferably the International Court of Justice. The committee should not underestimate how central the exploitation of resources in the Timor Sea is to the Timor-Leste government's strategic development planning, or the amount of popular resentment which is present within Timor-Leste concerning Australia's approach to these resources. Australia is a very wealthy country with one of the highest standards of living in the world. Timor-Leste remains one of the world's poorest countries where 37 per cent of the population live below the global poverty line. I ask the committee to consider whether Australia is meeting its legal and moral obligations to Timor-Leste when you are preparing your report. Only once we do that will we ever have a truly free, fair and friendly relationship with one of our nearest neighbours." At another hearing on 24 June Canberra Friends of Dili tried to raise the boundary issue, but the members of Parliament were not interested.

In power since 2007, 'Labor' maintained the Timor Sea policies it inherited from the Coalition Howard government and its Foreign Minister Downer, and from the 'Labor' Hawke and its Foreign Minister Evans before them. With the change of government in Australia the inquiry has lapsed, but could resume.

As Timor-Leste celebrated the 38th anniversary of its Proclamation of Independence on 28 November, many were discussing Australia and the United States eavesdropping on other governments, including Timor-Leste and Indonesia. Minister of State Agio Pereira re-opened the public debate on maritime boundaries with interviews on Australian radio and television. The Australian grassroots organisation Timor Sea Justice Campaign also urged Australia to establish a boundary with Timor-Leste, while former Australian Foreign Minister Alexander

Downer patronisingly belittled Timor-Leste's effort to advance its national interest.

* * *

On 3 December 2013 Australian media reported that the Australian Security Intelligence Organisation - A.S.I.O., assisted by the Australian Federal Police - A.F.P., in total some fifteen agents, had broken into the Canberra home and office of Mr. Bernard Collaery, a lawyer representing Timor-Leste in the C.M.A.T.S. arbitration case.

Mr. Collaery has a long association, representing the interests of the people of Timor-Leste. Collaery advocated on behalf of Timor-Leste and was legal advisor to the National Congress for Timorese Reconstruction in the critical period up until formal independence in 2002.

Appearing on Australian Broadcasting Television from Amsterdam the evening of 3 December 2013 Mr. Collaery detailed the circumstances. He had been in The Hague preparing his client case against Australia.

The presenter: "Joining us now from Amsterdam is the lawyer for East Timor, whose Canberra home and office were raided by A.S.I.O. today, Bernard Collaery. Bernard Collaery has been in The Hague preparing East Timor's case against Australia.

Welcome to *Lateline* and thanks very much for being with us."

Collaery: "Yes, good evening, Emma."

The presenter: "So tell us first of all: what were those A.S.I.O. agents looking for and what exactly was taken in the raid?"

Collaery: "Well, there were many files taken: my correspondence with the East Timor

government, the prime minister of East Timor, Xanana Gusmão; my correspondence with the learned professors in Cambridge and Oxford, who are assisting and are the leading counsel in the case, Sir Elihu Lauterpacht and Professor Vaughan Lowe, counsel who are of the most eminent status in international law; a variety of other documents and records.

Now, Attorney-General Brandis suggests that he can separate the two issues. That's a nonsense. This is an attempt to intimidate our witness and to prevent the evidence going forward at the Hague of this conduct."

The presenter: "Will that be achieved?"

Collaery: "Well, of course it won't. I can't think of anything more crass than what has occurred.

I mean, we go back to 2004, when the present Director-General of A.S.I.O. was then the newly-appointed - from Foreign Affairs - Director of the Australian Secret Intelligence Service, when he ordered a team into Timor to conduct work which was well outside the proper functions of A.S.I.S.

Our Australian people don't expect their espionage service to be assisting revenue deliberations and commercial negotiations between partners. East Timor and of course, as your viewers know, and Australia were joint partners in this enterprise. There was a dispute about the revenue split and the responsible Minister, Alexander Downer - responsible also for A.S.I.S., the Secret Intelligence Service - brought about a situation where the internal negotiation deliberations of the East Timorese was bugged. Eavesdropped. Listened.

This had nothing to do with our national security, nothing to do with protecting Australian people. All it's done is to drag our name down in face of the world once again."

The presenter: "Just by way of background, if you don't mind, Bernard Collaery, just giving us a little bit of context here for those who aren't familiar with the case: what is the evidence you'll be presenting in The Hague in relation to exactly how Australia went about this spying that you allege on East Timor?"

Collaery: "This Director, newly arrived Director, sent a technical team into Dili to liaise with an Australian aid construction team that were effecting renovations in the nation-building idea in East Timor: renovations to rooms that were to be used by the Timorese prime minister and his colleagues.

Eventually, through a series of clandestine missions, bugs were inserted into a hollow wall and, for the actual negotiations that took place, there was a listening post. A transcript was carried across town. And so Mr. Downer's negotiators knew what the internal deliberations, as the issues went for over a period of days, knew what the Timorese were thinking and that gives an extraordinary advantage.

Emma, if this had happened in Wall Street, in Collins Street [the business street] Melbourne, in Bridge Street [same] Sydney, people would go to jail. This is inside trading to get extra revenue. It had nothing to do with protecting our country. It was over what is in relative terms a small amount of gas and oil, very valuable to the Timorese but a minute, minuscule proportion of our national reserves.

But when I come back to that unprecedented activity and we've got someone coming forward to say, "This was not in my proper functions of my service," you've got a very informed comment.

Who ordered that - who ordered that program? Mr. Irwin. Who's in charge of A.S.I.O., sent his agents into my office and my home? Mr. Irwin. Now, I want Mr. Irwin to know this: that we'll see who turns out on the right ..."

The presenter: "You mean David Irvine? Apologies for interrupting."

Collaery: "I mean David Irvine. Yes. I mean David Irvine, currently head of A.S.I.O., who after his newly arrived appointment in A.S.I.S. in 2004 ordered this operation. Now, Mr. Irvine better consider about who is going to be, in the end of this day, on the right side of the law."

The presenter: "How legal and, indeed, how safe is it for A.S.I.S. to use Australian aid workers, as you're suggesting, as a cover for spying?"

Collaery: "Well, this is what was done, which makes it so horrible. We have Mr. Howard in his memoir saying how proud he is, and justifiably so in many respects, for what he's done for East Timor. You've got massive amounts of our wonderful troops who I saw there over the years, wonderful volunteers and non-government people. And you've got this little operation - sinister, little, sneaky operation - besmirching our country's name and helping to keep this country poorer.

If Mr. Irvine could go to East Timor and see the constant infant burials, he'd understand how strongly many of us feel about this conduct, most improper conduct, outside the proper

functions of A.S.I.S. And we've got a situation where the man who ordered it is now the man who ordered a raid on my home and my office and other good persons."

The presenter: "What can you tell us about the witness who's been questioned tonight? We understand he is a former A.S.I.S. agent. Was he directly involved in spying on East Timor, the spying that you're alleging?"

Collaery: "This witness was the director of all technical operations of A.S.I.S. We're not talking about some disaffected spy: we're talking about a very senior, experienced, decorated officer who formed a proper view, as would any good person, that this was a wrong operation.

This was wrong. It was commercially motivated and it was motivated in a situation where the Government was anxious to give Woodside Petroleum a window of opportunity. I believe that's in our evidence. The case will be mounted in due course and I think Australians should await judgement.

But I want the documents returned from my office and I certainly want Mr. Irvine to be closely scrutinised over this affair."

The presenter: "We understand the witness has had his passport seized. Were you expecting him to give evidence in The Hague?"

Collaery: "If Australia was going to cease its "neither confirm nor deny." Of course, Emma, you should know that the prime minister of East Timor wrote to [then prime minister] Julia Gillard in December last year and pointed out this evidence and gave Australia the opportunity to simply tear up this improperly procured treaty. It would have gone away at that stage.

Timor's not joining this bandwagon of intelligence leaks and the rest. This is not part of what's currently going on. This is a well-developed, well-advised, eminently represented legal case against Australia and it will proceed, Emma.

Let me make clear to you and to Senator Brandis: this proceeding will continue. The evidence is available here in The Hague as I speak. Muzzling the oral evidence of the prime witness is so crass. What do you think the tribunal is going to think of it? It's a contemptuous action."

The presenter: "Well, isn't it entirely within the rights of the Australian Government to attempt to protect the integrity of its intelligence agencies and the information they collect in the course of their operations?"

Collaery: “Indeed, Emma. But I made clear at the start: there’s no objective here in beating A.S.I.S. over the head. This is a wrong operation, clearly disagreed to within A.S.I.S., which is a significant issue.

And this witness is not providing evidence at large about operations of A.S.I.S. And Australia would know if it had and it hasn’t. Nothing else is coming out of this case but that there was an operation in league with aid programs to construct listening devices into the walls of a building in Timor to be used by the new government. What threat to Australia’s intelligence integrity does that disclosure give?

What it requires is a full judicial inquiry into the conduct of A.S.I.S. in relation to this matter. Does the Australian public support the use of our intelligence service to adjust the revenue in revenue negotiations over this petroleum and gas oilfield? After all, you should ask the Australian Government: just how much money did it personally get as an Australian Government out of this clandestine mission? You’ll find most of the money went to the oil company that was most advantaged by it. Will be advantaged by it, I should say.”

The presenter: “Former Foreign Minister Alexander Downer says these recent spying allegations by East Timor against Australia are, in his words, an “opportunistic” attempt to undermine a treaty between the two countries over these lucrative gas fields in the Timor Sea?”

Collaery: “This is a David and Goliath situation. This is a small country that has ... It’s an infertile country. Marine clay. It grows very little. This gas and oil is its future. This is nothing opportunistic. The investigation and negotiation of this issue should have been underway for some time. Most unfortunately our litigation timetable has come up at the same time as the other spying disclosures but this is totally unrelated to that.”

The presenter: “Bernard Collaery, we’re out of time. Thank you so much.”

Collaery: “It’s a pleasure.”

The senior retired Australian Secret Intelligence Service agent, who is a prime witness in the Timorese espionage case against Australia in the international courts, was detained and searched at his Canberra home, as was his wife. Timor-Leste was due to launch a case in The Hague on 5 December to have the AUS$ 40 billion oil and gas treaty it signed with Australia invalidated on the ground that Australia had the advantage in negotiations because of spying

conducted by A.S.I.S. in Dili, an activity which it claims had been ordered by then Foreign Minister Alexander Downer.

Timor-Leste would claim that A.S.I.S. had used the cover of Australia's aid programme to install listening bugs inside the Timorese cabinet room so it could spy on sensitive information during oil and gas negotiations in 2004. The two countries were working on a deal to share revenue from the oil and gas deposits under the Timor Sea - the Greater Sunrise fields. Woodside Petroleum, which wanted to exploit the field, was working hand in glove with the Australian government and senior ministers to score the best possible deal.

Mr. Collaery said the details in the allegations had not been made public to date.

"The director-general of the Australian Secret Intelligence Service and his deputy instructed a team of A.S.I.S. technicians to travel to East Timor in an elaborate plan, using Australian aid programs relating to the renovation and construction of the cabinet offices in Dili, East Timor, to insert listening devices into the wall, of walls to be constructed under an Australian aid program." he told the A.B.C.

Mr. Collaery said that a star witness whom A.S.I.O. questioned the previous night was "not some disaffected spy" but the former director of all technical operations at A.S.I.S. He added that the former A.S.I.S. operator decided to blow the whistle after learning that Mr. Downer had become an adviser to Woodside Petroleum in his years after politics.

In a statement to the A.B.C., Mr. Downer said that the allegations were old and he would not comment on matters regarding national security.

The whistleblower's affidavit is understood to refer to the 2004 bugging operation as "immoral and wrong" because it served not the national interest, but the interests of big oil and gas.

The passport of a key witness and whistleblower in the case, a senior retired officer of the A.S.I.S., was also confiscated during the raid.

Mr. Collaery said that the conduct by the Australian government in terms of the raids and the confiscation of the whistleblower's passport was "crass" and designed to disrupt the proceedings by "muzzling the oral evidence of the prime witness."

"If this had happened in Bridge Street [the business street in Sydney], Collins Street [in Melbourne], Wall Street, people would go to gaol." he added.

"What do you think the tribunal is going to think of it?" Colleary said

By the evening of 3 December 2013 other voices joined Mr. Collaery's statement. Thus, Frank Brennan, a prominent Jesuit academic lawyer, told the A.B.C. that the whistleblower intended to provide "credible direct evidence" of the bugging of the Timorese cabinet rooms in 2004. Brennan described the Australian government's actions as "cowboy antics".

On radio, Mr. Collaery told the A.B.C. on 3 December evening that his senior law clerk had informed him two agents identifying themselves as A.S.I.O. had raided his office. Collaery was seeking witness protection in The Hague for the former A.S.I.S. whistleblower. "As I understand it, agents of A.S.I.O. executed a search warrant on my law practice and spent some hours there seizing all manner of documents and other records on the basis there was a national security issue." Collarey said. He suggested that the raid "may be an intimidatory gesture towards others" inclined to assist in the Timor case, which involves allegations that Australia listened in during high-level negotiations over the lucrative oil and gas treaty.

Collaery told the A.B.C. that he believed the key witness - the former intelligence official who had come forward as a whistleblower in the Timor case - had been arrested in Canberra.

"The agents who effected the warrant refused to give to my senior law clerk of my practice a copy of the warrant, saying it contained national security secrets." Collaery told the A.B.C. of the afternoon's events.

"I mean how absurd. I have no way of knowing at this moment the legal basis for this unprecedented action of raiding my law offices to procure evidence which is about to go on the table in The Hague."

Again speaking from Amsterdam, Mr. Collaery elaborated on the events of 3 December. He said that his office was raided just 24 hours after he left Australia to prepare the proceedings. A.S.I.O. officers, who were accompanied by officers of the Australian Federal Police, spent hours searching his office, alarming two young female staff members. They seized a personal computer, USB stick, and sensitive files relating to the legal proceedings, including the affidavit of the crucial witness.

One of Collaery's shocked assistants had told journalists: "They were filming it, explained to me that they were from A.S.I.O. and there were A.F.P. officers there too." The women were shown a substantially blacked-out search warrant, and told they could not even keep a copy, supposedly for "security reasons."

"What, if any, legal grounds exist for these raids and other measures remain entirely unclear, and unspecified." Collaery commented: "I have no way of knowing the legal basis upon which these unprecedented actions [took place]."

Collaery said that he had the evidence with him, and the raid would do "very little" to hinder Timor-Leste's case. "I can't see what the government hopes to achieve by this aggressive action." he said. "It can attempt to nullify the whistleblower's evidence, but that evidence has flown - the evidence is here."

Timor-Leste said that Australia has failed to provide an explanation for the allegations.

The Attorney-General, Senator Brandis, issued a statement late on 3 December night saying: "I confirm that today A.S.I.O. executed search warrants at addresses in Canberra, and documents and electronic media were taken into possession."

"The warrants were issued by me on the grounds that the documents contained intelligence related to security matters." Brandis said.

"I have seen reports this evening containing allegations that the warrants were issued in order to affect or impede the current arbitration between Australia and Timor-Leste at the Hague. Those allegations are wrong. ... I have instructed A.S.I.O. that the material taken into possession is not under any circumstances to be communicated to those conducting those proceedings on behalf of Australia." He added that A.S.I.O. requested the search warrants "on the grounds that the documents and electronic data in question contained intelligence relating to security matters."

"The Attorney-General never initiates a search warrant; the request must come from A.S.I.O. itself." he told the Senate.

He went on to explain that security is defined as the protection from "espionage, sabotage, politically motivated violence, attacks on Australia's defence system, or acts of foreign interference, and the protection of Australia's territorial and border integrity from serious threats."

On his part, former Foreign Minister Alexander Downer accused Timor-Leste of an opportunistic publicity stunt by renewing its claims, but Mr. Agio Pereira, the president of the Timor Leste council of ministers, said that the evidence was compelling.

The view of the Australian Greens was quite clear. According to them, Attorney- General Brandis needed to explain his decision to authorise raids by the intelligence services in the previous 24 hours. The Greens branded Senator Brandis' conduct analogous to the controversial Federal Bureau of Investigation chief, J. Edgar Hoover "and is able to throw warrants around like confetti." The Greens moved in the Senate on 4 December to suspend the standing orders in an effort to force the Attorney-General to make a comprehensive statement explaining why his conduct was not an abuse of executive power.

The Coalition rejected the suspension motion, arguing that national security matters needed to remain above partisanship.

Labor also and quite sheepishly rejected the motion, but Senate leader Penny Wong suggested that Brandis should make a statement to bring clarity to events of the previous 24 hours, given they had attracted significant public interest.

This view was contradicted in the debate by the veteran Labor senator John Faulkner, who told the chamber that he was not certain what Brandis could add, at least immediately, to a media statement issued during the previous night, given his national security responsibilities and the protocols they entail. Senator Brandis could make a statement at any time and the Senate would give him leave. Compulsion was unhelpful, Senator Faulkner argued during the suspension debate.

The South Australian independent Senator Nick Xenophon supported the suspension motion but said that he saw no bad faith on the part of Brandis. He branded the Greens' comparison of the attorney general to J. Edgar Hoover "unhelpful". Senator Xenophon said rhetorical overstatements did not advance the cause of measured public debate on intelligence over reach - a debate he said was now very much needed. The Labor leader, Bill Shorten, told a press conference that he was seeking a private briefing from the government about the A.S.I.O. raids - but he declined to give "personal opinions" about the case.

Asked whether it was appropriate for Australian intelligence agencies to gather evidence in order to benefit commercial negotiations - Shorten dead batted. The 'intelligence'

services should “be used to promote the national interest consistent with their legislative remit.” he said.

Prime Minister Tony Abbott was quick to defend the A.S.I.O. raid on the offices of Mr. Collaery saying that it was done in the national interest.

“We don’t interfere in cases, but we always act to ensure that our national security is being properly upheld. That’s what we’re doing.” he told reporters in Canberra.

But there is much more. Personally ordered by Attorney-General Brandis, the raids were designed not only to block evidence being presented in The Hague of the illegal bugging of East Timor’s government. They sent a wider threatening message to the media, the legal profession and potential whistleblowers not to release any further material exposing the intensive surveillance operations conducted by the Australian intelligence apparatus throughout the Asia-Pacific region.

These operations, which include listening posts in the Australian embassies in Dili and other Asia-Pacific capitals, are integral to the global United States spying network - recently exposed by former National Security Agency contractor Edward Snowden - and the Obama administration’s increasingly aggressive “pivot” to Asia to combat China.

Significantly, as the A.S.I.O.-A.F.P. raids took place, Foreign Minister Julie Bishop was preparing to fly to Indonesia in a bid to mend relations after Snowden’s revelations of U.S.-backed Australian tapping of President Susilo Bambang Yudhoyono’s phone in 2009.

It is known, of course, that Australia is a member of an ‘Anglophone’ *cabal* formally known as the ‘Five Eyes’: the United States, Canada, the United Kingdom, Australia, and New Zealand. They share most of the information that they acquire through high-tech mass surveillance. That is the kind of spying that Snowden’s leaks are about, and whatever Australia picks up through this process it presumably shares with its co-conspirators. It was in this context that Australia listened to the phone conversations of Indonesia’s president, Susilo Bambang Yudhoyono, his wife, and eight potential successors.

When Indonesia recalled its ambassador from Canberra and protested, Prime Minister Tony Abbott swatted the protest away with the line they are all using now: “All governments gather information and all governments know that every other government gathers information.”

The Indonesian reply was a classic. “I have news for you.” said Foreign Minister Marty Natalegawa. “We don’t do it. We certainly should not be doing it among friends.” He was, he said, deeply unhappy about the “dismissive answer being provided” by the Australian government. So Australia has managed to alienate its biggest neighbour, probably for no advantage to itself, just as the United States has alienated Brazil with the same tactics.

But the kind of spying under discussion here was too shameful to share even with the other ‘Four Eyes’ of the ‘Anglosphere’ so dear to Prime Minister Abbott. Spying in Timor-Lest was an Australian-only operation mounted in 2004 to gather information about the negotiating position of a very poor neighbouring country, so that Australia could rob it.

The raids followed further damning revelations, through leaked Snowden documents, of massive surveillance by the Australian intelligence agencies, directed against ordinary people in Australia, as well as people and governments across the region. They also came amid an intensifying campaign by the Abbott government and the media establishment to denounce the Australian Broadcasting Corporation and the *Guardian Australia* web site for publishing the incriminating documents.

Clearly Australia was coming under further pressure over spying in the region after the unfortunate disclosure about spying on Indonesia government persons and Indonesia private persons, with Timor-Leste accusing spies of bugging its cabinet room for commercial advantage, and threatening to invalidate a potentially lucrative treaty which could have earned Australia billions in royalties. As far as Timor-Leste it was not the first time that the allegations had been made, but Mr. Agio Pereira - the person tipped to be the country’s next prime minister - was the most prominent leader to go public with the accusation. Mr. Pereira said that the bugging took place during the negotiations over the C.M.A.T.S. Treaty, and it would have given Australia a massive advantage.

“Insider trading in Australia is a crime. And when you bug the negotiating team’s evaluation of the impact of their negotiations, you do have an advantage.” Mr. Pereira said. “It’s more than unfair, it actually creates incredible disadvantage to the other side and according to international law, the Vienna Convention and the law of treaties, you’re supposed to negotiate in good faith.”

While declining to provide evidence of the allegations, Mr. Pereira said that, for that reason, Timor-Leste had decided to take the case to an arbitration panel at The Hague.

The comments came at a difficult time for Australia in the region with the fallout from spying allegations continuing to strain Australia's relationship with Indonesia.

Of the three treaties between Australia and Timor-Leste over sharing resources which lie between the two countries, one stipulates that neither side can discuss maritime boundaries for half a century - the life of the treaties. That is the treaty that Timor-Leste wants to have invalidated. It wants a sea boundary half-way to Australia, and if it succeeds, it can then lay claim to more of the vast reserves of oil and gas under the Timor Sea. At stake are billions of dollars. Timor could have simply cancelled the resource sharing treaties. It had the right. But it seems that Dili's view was that arbitration, not confrontation, is the better option.

Mr. Pereira denied that the timing of the comments was designed further to embarrass Australia. "It's not about money; it's about sovereignty. It's about certainty, and it's about the future of our future generations. It's very important for Timor." he said.
He added that Timor-Leste had quietly sought an explanation from the Gillard government in December 2012, but the government declined to respond satisfactorily and so Timor-Leste moved to seek international arbitration.

Subsequently, at a meeting arranged between the two countries in London, the Australian delegates did not turn up. And at a follow-up meeting arranged in Bangkok during that year only junior members of the Department of Foreign Affairs and Trade attended, but had no instructions on what to say to the Timorese. All of this was happening while Australia was trying to obtain a seat on the United Nations Security Council with the support of the Timorese !

Back in May 2013 then Foreign Minister Bob Carr and Attorney-General Mark Dreyfus released a statement saying Australia did not comment on intelligence matters even those that were untrue.

"Timor-Leste by having permanent borders will definitely give a better chance to deal with multinational resource companies and give their investment more security." Mr. Pereira said.

In an unusual twist, former Labor M.P. Janelle Safin, who lost her seat at the September 2013 election, is now working as a legal adviser to the Timor-Leste government.

“I think it’s very damaging not just espionage against another party in a treaty negotiation but actually espionage in the cabinet room of that other government when they're making arrangements.” she said.

“Now these things haven’t been proved, but they have been strongly alleged and there is arbitration in tow.”

Ms. Safin declined to discuss the specifics of the case but said that the commercial aspect was concerning. “You know some people say that everybody spies on everybody, but certainly there’s got to be protocols around that and that’s a matter for the countries but also within the United Nations.” she said. “If spying has been taking place and somebody has been able to gain a commercial advantage that’s certainly of deep, deep concern and that’s something that I’m concerned about and I know a lot of people would be.”

On 4 December 2013 the Timor-Leste Ambassador to Australia, Abel Gutteres, appearing on the A.B.C. *Lateline* programme, discussed the A.S.I.O. raid of the premises of Mr. Collaery.

The presenter: “... Joining us now from our Canberra studio is the East Timor’s Ambassador to Australia, Abel Guterres. Abel Guterres, welcome to *Lateline.*”

Guterres: “Thank you. Thank you for opportunity to be here.”

The presenter: “ Now your Prime Minister, Xanana Gusmão, has asked Tony Abbott for an explanation over yesterday's raids. What exactly does he want to know?”

Guterres: “Well, as he has made - as his statement have clearly indicated that he needs an explanation from our friend, Australia, the Prime Minister of Australia, Tony Abbott. And we hope that that will bring some satisfaction or explaining the events that took place. But I want to say that this case is quite straightforward in terms of bringing clarity to the disagreement that both countries have, and these, of course, will provide certainty in terms of arrangement, commercial arrangement that the two countries have agreed to and we hope that this will clear - made it absolutely clear in terms of future or present investment in the region, in the Timor Sea.”

The presenter: “We’ll talk specifically about that arrangement and the dispute that’s being settled in The Hague this week shortly, but I wanted to ask you a bit more about the raids specifically. Do you believe that those raids were intended to compromise East Timor's legal case against Australia?”

Guterres: “I think the word has been used ... has been in Australia’s national security interests. And I must say that Timor-Leste has been and is and will always be aligned in terms of national security interests with our neighbour and especially with Australia. So there is no question in terms of our engagement and loyalty to this engagement in the national security issue. So, what has taken place is absolutely regrettable.”

The presenter: “Well of course, the Attorney-General, George Brandis, was adamant today that the sole purpose of the search warrants was to protect Australia’s national security.”

Guterres: “Well, I’ll leave that to our Australian friends to make the judgment on whether that is Australian security or these - the case as it is before the arbitration is to do with commercial issues.”

The presenter: “Is there any situation by which Australia would be justified in spying on East Timor under national security grounds? I mean, there is the constant refrain that all countries spy on each other and that it’s a natural part of the intelligence-gathering system.”

Guterres: “Well, in terms of the pure security issues of all countries, and Timor-Leste is no exception, and we understand and we protect those kind of security concerns, whether it is between us and Australia or the region in general. So, in terms of national security, that is never in question. We understand that. And we know what dangers are in terms of a threat to peoples of our two countries and the region and the overall regional security. So that is no question. What we are engaging here is purely a commercial issue.”

The presenter: “So what does East Timor believe was the purpose of Australia’s bugging of the cabinet office of your government?”

Guterres: “Well, I guess, you know, what has taken place, allegedly has taken place is going to be, need to proven at the international arbitration that is taking place now and we wait for that outcome. But I suppose when any fair-minded person would see the events that has taken place would draw a conclusion as to why this has taken place.”

The presenter: “In 2004, the two countries, as we now know, were in the midst of these negotiations over those lucrative oil and gas fields in the Timor Sea. How appropriate was it for Australian spies to specifically be posing as aid workers to actually gain the access to your government offices?”

Guterres: “I guess it is - in that specific case, it’s unfortunate that the potential of being an aid worker - it’s really unfortunate that that has taken place. But I want to assure Australia and Australians that Timor-Leste and Australia are good friends and good neighbours and good allies and we have been since Second World War and that there will be no different now and into the future. What is important is that the difference that we’re having now, Australia is a member of the Security Council that is the guardian to international law. And I think we, as a young country, we need to learn from those good examples. So, is Australia setting a good example? Well, that is going to be proven at the tribunal as it evolve and it will have its verdict.”

The presenter: “Well in your view, is Australia demonstrating the traits of a good ally and friend, as you describe it?”

Guterres: “Well, we expect Australia to provide a good example as good international citizen and abiding - a good international law-abiding country and we hope to learn from those good experiences.”

The presenter: “And for the benefit of the audience, this oil and gas well which is in dispute lies about 100 kilometres from the East Timorese coast and about 400 kilometres from Australia. You’re sharing the revenue from that project 50-50. That was a deal done back in 2006 when you also signed an agreement not to contest that arrangement for 50 years. So why now are you seeking to have that deal overturned?”

Guterres: ”Well, the fact that we have a clause there in the agreement that in an event the - either of the parties can challenge, and so, where was the certainty? The certainty that has to be established is the boundary issue where investors that will go into the area know exactly where the boundaries are, which jurisdictions are of either side. So that is the only way to give absolute certainty to investment in the region. And the existing arrangement will continue to go on.”

The presenter: “But this is what’s up for dispute in The Hague this week.”

Guterres: “That’s correct. Yes. It’s because there is the clause. So where was that certainty - when you have that clause that says that either party can raise the issue or can challenge? Is that a certainty? I don’t think that’s a certainty. So certainty that we are seeking is to draw the boundary so that the investors know exactly which is the Australian territory, which is the

Timor-Leste territory. There's a clear jurisdiction in which investors can have 100 per cent confidence in putting in their money without having question marks behind their backs."

The presenter: "But you are essentially trying to rewrite the deal that was brokered in 2006. I guess my question is: what was wrong with that deal then?"

Guterres: "Well, the deal is not satisfactory. That's exactly why we are at this stage. And because there was always that question mark. And for Timor-Leste to not dealing with the boundaries for 50 years; you know, which country will do that? And I think we are entitled to - what we are asking is: no more and no less. What we are asking is: what is under international law belongs to Timor-Leste. The area of jurisdiction belongs to Timor-Leste according to international laws and norms."

The presenter: "So are you saying that the agreement from seven years ago, under that deal, East Timor was being ripped off?"

Guterres: "Well, I s'pose people can draw those conclusions."

The presenter: "But that was a 50-50 split."

Guterres: "Yeah, 50-50 split, but the fact that we are not happy and has not given a certainty in terms of the developing the Greater Sunrise field."

The presenter: "I just lastly want to put this to you that our former Foreign Minister Alexander Downer, who brokered that deal back in 2006, has recently said - or questioned, I should say, the timing of this case being taken to The Hague. He is suggesting that East Timor is being opportunistic, given the controversy surrounding the spy scandals with Indonesia."

Guterres: "I will make no comment on former Foreign Minister's statement. And I think the evidence, what has been talked publicly is there before the public, before Australian community, before East Timorese community, and therefore I think the public will draw those conclusions."

The presenter: "Thank you very much for your time this evening, Abel Guterres."

Guterres: "Thank you for the opportunity."

Speaking for the first time, the Prime Minister of Timor-Leste Xanana Gusmão told Mark Colvin of the A.B.C. that he was shocked by the Australian government's decision to authorise the raids.

Timor and Australia were facing each other in The Hague in a case about their claim that they were the subject of a covert surveillance and bugging operation during oil and gas negotiations nearly a decade ago.

The existence of the whistleblower was a secret known to only a handful of officials and lawyers, until the raids in Canberra on 3 December.

Ten years ago, under an Australian aid programme, the seat of government on the Dili waterfront was given an expensive spruce-up. But it seems the renovation gift was a kind of Trojan horse. In May 2004, posing as site workers, agents of the Australian overseas spy agency A.S.I.S. started planting listening devices inside the walls of the cabinet room, two offices away from the chamber occupied by the prime minister. They returned in July and again in August, presumably to check and maintain their eavesdropping equipment before removing all traces of their activity by December 2004, when the operation ended.

Such details were becoming known because one of those A.S.I.S. agents had decided to risk a gaol penalty for sharing state secrets in a bid to support the government of Timor-Leste, as it was embarking on 5 December 2013 on a complex international arbitration case designed to overturn a resource-sharing treaty struck that year with Australia.

The then Foreign Minister Alexander Downer was determined to drive a hard bargain. In May 2004 he had said: "If there is an issue of economic disparity between Australia and East Timor, that should be addressed through aid programs, which it is, and other mechanisms. That should not be addressed through shifting boundaries and changing international law."

At the time the treaty negotiations were over a region in the Timor Sea known as Greater Sunrise. It is a $20 billion field of dreams for resource company Woodside Petroleum, which was acting in concert with the Australian government to drive a hard bargain with the fledgling nation.

The negotiation was basically about who was going to get to control the very significant oil and gas reserves in the Timor Sea and Australia forced Timor's hand on that issue, so it got what under international law would be regarded as an unfair share. Essentially it

was to benefit Australia and to benefit an Australian-based oil and gas company, Woodside Petroleum. The Australian government appeared to have been working closely with Woodside Petroleum and wanted to benefit them and the Timorese government ended up being essentially put at a disadvantage in that process.

The ratio of share of resources is equitable, or relatively equitable, in the areas which have been agreed to. The problem is that the areas which have been agreed to would ordinarily be wholly under Timorese jurisdiction had the boundary been drawn half-way between the two countries. That is to say: if Australia had recognised the Convention of the Law of the Sea and drawn the boundary half-way between the two countries, Timor-Leste would receive 100 per cent of all of the reserves, as is its right under international law. But under the current arrangement it received half of the income of the reserves in some areas, and 90 per cent of the income from reserves in other areas. With reference to the Sunrise Field, such considerations were quite significant. The Sunrise Field has an amount of gas estimated to be worth about AU$ 20 billion and that is, of course, very significant for Timor-Lester's future. That country is in dispute with Woodside Petroleum over where the liquid natural gas would be processed and this matter can only be resolved if Timor-Leste can assert sovereign control over that territory.

Woodside was essentially able to avoid dealing with the Timorese government. It was amply assisted by the Australian government. Had it had to deal with the Timorese government, it would have had to have paid more taxes or more royalties for the extraction of gas from the Greater Sunrise field. And it would have been obliged to agree with the Timorese government as to what the Timorese government wanted in terms of the processing of the liquid natural gas - that is, on-shore processing within Timor-Leste - that the Timorese government wants because it will boost the establishment of a petrochemical industry in the country.

So, where is the national interest about which the present Australian government speaks, much as the Howard government and Mr. Downer and others did in their defence of their position in these treaty negotiations ? In fact, Australia already benefits from having oil from the Timor Sea refined in Australia. There was some hope, from the Australian perspective, that Woodside would come onshore with the liquid natural gas processing, which would be a big boost to the development of Australian North. But at the present moment it appeared that the proposition would be in favour of offshore processing; which does not benefit either

Australia or Timor-Leste, although Australia would benefit probably more than Timor-Leste on balance.

What mattered was continuing Australian assistance for a huge company like Woodside. Essentially, the agreement was an advantage to two parties for their mutual economic benefit and not on the basis of national sovereignty, let alone the interest of Timor-Leste.

What is known is contained in an affidavit to the Timorese in support of their case that the treaty with Australia should be declared invalid. The author of the affidavit, the former spy, was incensed to learn that, having lost his position on the defeated Howard government, Alexander Downer had became an advisor to Woodside Petroleum. Mr. Downer's life as a lobbyist after politics may have set in train events which could see a treaty invalidated, a maritime boundary re-drawn and a major Australian resource company confront a new set of realities in its dealings with Timor-Leste. Attacking the Australian government and its intelligence services, Prime Minister Xanana Gusmão had issued a very long statement which essentially condemned the Australian government as "counter-productive and uncooperative." Further: "Raiding the premises of a legal representative of Timor-Leste and taking such aggressive action against a key witness is unconscionable and unacceptable conduct." Prime Minister Xanana Gusmão went on: "It is behaviour that is not worthy of a close friend and neighbour or of a great nation like Australia. Timor-Leste highly values its relationship with Australia and with the Australian people. We find these actions to be disappointing and contrary to a trustworthy, honest and transparent neighbouring relationship."

Xanana Gusmão called on Tony Abbott to explain his government's actions against Timor-Leste's legal representatives and "ensure the safety of our witness for a prompt, just and fair resolution of this important matter." Prime Minister Xanana Gusmão had already made his position clear when, addressing the *Bali Democracy Forum* hosted by Indonesia's President Susilo Bambang Yudhoyono, on 7 November 2013 - held in the same building which was suspected of having been wiretapped by the Australian and American governments in 2007, he delivered a scathing moral attack. The forum was also attended by Foreign Minister Julie Bishop, who was expected to hold a bilateral meeting with Dr.Natalegawa the following day.

In his speech Prime Minister Gusmão claimed that "leaders of proud democracies ... appeal to

the uglier side of human nature and descend into a pattern of mindless negativity, partisanship and conflict that goes so far as to put international stability at risk." "Still, when it comes to civic rights, which are imposed on new democracies or on countries in transition, the powerful countries shamelessly violate the civic rights not only of their citizens but, more scandalously, the citizens of other countries." Mr. Gusmao said.

According to documents leaked by former N.S.A. contractor Edward Snowden, the Australian embassy in Dili was among several Australian diplomatic missions in Asia which were conducting covert surveillance in partnership with the American Agency. Before those revelations were leaked, Mr. Gusmão earlier in 2013 had accused Australia of unlawfully tapping government negotiations on how oil revenues would be split in the tiny, oil-dependent nation in 2004.

Prime Minister Gusmão was weighing in to the U.S.-Australian spying row with a blast at "proud democracies" which "shamelessly violate" the rights of other countries and citizens.

"Either we are in the presence of an extreme distrust where everyone is a potential enemy or we are witnessing the fraudulent use of technology to obtain economic advantage over others more immoral when those others are weak and small."

As a result of the Australian Defence Signals Directorate's activities in Jakarta and Bali, the new Australian government was trying to defuse a row with Indonesia's government, particularly Foreign Minister Marty Natalegawa.

Dr. Natalegawa had warned that Indonesia would reappraise its security information exchange arrangements with Australia, citing counter-terrorism and people-smuggling as areas now in question.

The former soldier who fought a successful and bloody war of independence against Indonesia between 1974 and 1999 said that his country had "no better friend than" the Indonesian president Susilo Bambang Yudhoyono.

By contrast, he suggested that more developed countries were threatening true democracy. "I ask you all whether we can really say that we are living in a democracy if we are subject to pervasive surveillance. ... Now that information technology is part of the fabric of our lives we have to consider the impact on democracy when our communications are being watched by others. This is not, however, just a matter of privacy and personal freedom. For nations of

the world this question goes to the very heart of what it means to be sovereign. And for a small nation like Timor Leste, with limited resources, it means that we are subject to prying nations acting in their own national interest."

On 27 November 2013 the Australian Broadcasting Corporation returned on the subject of Australia bugging Timor-Este's cabinet for commercial advantage of a huge company such as Woodside.

The presenter: " ... A senior Timorese government minister currently in Australia has told [the 7.30 Report] that Dili is seeking to have the gas treaty overturned in an international court because it was tainted by espionage.

Mr. Agio Pereira, President of the Council of Minister: "It's critical, critical because much of our annual budget is drawn from the petroleum fund and the development of our country demands infrastructures 'cause we're building a nation-state literally from zero."

The reporter: "Australia also wanted [a] piece of the action. East Timor claims Australia was so intent on that outcome, it took the incredible step of bugging the East Timorese cabinet room, the place where negotiators talked tactics. East Timor believes the bugging gave Australia the edge in the talks that followed."

Pereira: "When you bug negotiating team's evaluation of the impact of their negotiations, you do have an advantage. It's more than unfair. It actually creates incredible disadvantage to the other side."

Paul Cleary, a former adviser to the Timor-Leste government during the treaty negotiations: "We were told by Peter Galbraith, who was a former U.S. ambassador who had a really good insight into these intelligence activities, that all of our communications would be monitored. So at one meeting in Canberra in 2005, we were actually in the Foreign Affairs building and we decided to leave and we went to the Sculpture Garden of the National Gallery and we put all of our mobile phones in my bag and we put it about 100 metres away and we actually held our discussions in the Sculpture Garden because of the real concern we had that we will be bugged.

Even in East Timor, the team saw Australia's foreign intelligence service as a constant threat and there's suspicions bribes were paid. We were also aware that there was potential for A.S.I.S. to be contacting members of our negotiating team, and there clearly is evidence, I

think - and I cite this in my book - of one very senior advisor who all of a sudden sort of went weak at the knees and was advising the East Timor government to capitulate and accept a really poor offer that was being made by Australia."

The reporter: "In Sydney today [27 November 2013], East Timor's President of the Council of Ministers, Agio Pereira, told *7.30* that compelling evidence will be provided during international arbitration the country has commenced. ... "

Pereira: "It's not about money, it's about sovereignty, it's about certainty and it's about the future of our future generations.

The reporter: "Mr. Pereira says East Timor has tried to discuss the matter several times and would abandon its arbitration if the Australian government gave it a detailed response to its spying concerns."

Pereira: "Our Prime Minister, on 7th December last year, sent an official note, a memorial if you like, to the - to his (inaudible), the Honourable Prime Minister Julia Gillard, which we expect a substantive reply which never game. Instead we have a low-level discussion in Bangkok, which also did not really bear any fruit."

The reporter: "Tomorrow East Timor celebrates one of its two independence days. It says its relationship with Australia remains strong, but is warning Canberra to take its concerns on the spying seriously."

Pereira: "We need to define these boundaries - the way the national interests wears the red line and I think after the cold war, you need to start to think seriously about who you consider your real enemies, not the virtual ones."

The reporter: "Should you not spy on friends then?"

Pereira: "That's the old saying of President Eisenhower, no?, that gentlemen should not read gentlemen's mail."

The reporter: "Father Frank Brennan has long lobbied for East Timor to have maritime boundaries redrawn. He says the treaty was harsh because it stopped East Timor negotiating maritime boundaries for 50 years."

Frank Brennan, of the Australian Catholic University: "What's even more strange is a provision was put in which said that even if the treaty was terminated, that if over time there

was exploitation of the resources, then provisions of the treaty would be resurrected and you would no longer be able to negotiate maritime boundaries. Now that definitely is a piece of overreach which you don't usually find in treaties."

The reporter: "He rejects claims the allegations are only being raised again to take advantage of Australia's embarrassment over the allegations of spying on Indonesia."

Brennan: "I would think it's very damaging if there be evidence not just of espionage against another party during a treaty negotiation, but actually espionage within the cabinet room of that other government as they're making those arrangements. Now of course these things haven't been proved at this stage, but they have been strongly alleged and there is now an arbitration in tow."

The reporter: "Past and current Australian ministers weren't available for interview today, but back in May, then Foreign Minister Bob Carr and Attorney-General Mark Dreyfus issued a statement saying the Government didn't comment on intelligence matters, even those that were untrue."

Many unanswered questions exist about the raids. In the night of 3 December, Attorney-General Brandis issued a terse statement declaring that he issued the search warrants to seize documents that "contained intelligence related to security matters." Without offering any explanation, he simply branded as "wrong" allegations that his actions sought to impede East Timor's litigation. Collaery, however, said the raids sought to intimidate anyone else who wanted to come forward against the Australian government. He said the star witness was a former director of all technical operations at A.S.I.S., who decided to blow the whistle because the "immoral and wrong" bugging of the East Timorese government served the interests of major oil and gas companies.

The illegal eavesdropping was undoubtedly going to be raised by Timor-Leste to challenge the outcome of the resulting pact, the Certain Maritime Arrangements in the Timor Sea Treaty.

In 2004, during negotiations for the treaty, the Australian government, then led by Prime Minister John Howard, economically and politically bullied the East Timorese government of Prime Minister Mari Alkatiri in order to secure the lion's share of the vast oil and gas reserves beneath the seabed. It also ordered A.S.I.S. operatives to plant listening devices in

government and prime ministerial offices in Dili, enabling Canberra to snoop on the East Timorese delegates throughout the talks.

Ultimately, the Howard government forced East Timor to shelve any resolution of a maritime border in the area for 50 years, while dividing oil and gas revenues on a 50-50 basis. The largest project, Greater Sunrise, which lies entirely in East Timor's waters according to international maritime law, will be exhausted within 50 years, starving the tiny impoverished country of critical revenues. Woodside Petroleum, which wanted to exploit the field, worked hand in glove with the Howard government and its foreign minister, Alexander Downer, who was in charge of A.S.I.S. Collaery said that the former A.S.I.S. official decided to expose the bugging upon learning that Downer, after quitting politics, became an adviser to Woodside.

Collaery said that the details in the whistleblower's affidavit had never been made public, until now. The director-general of A.S.I.S. and his deputy "instructed a team of A.S.I.S. technicians to travel to East Timor in an elaborate plan, using Australian aid programs relating to the renovation and construction of the cabinet offices in Dili, East Timor, to insert listening devices into the wall." he said.

Collaery accused the government and A.S.I.O. of "muzzling the oral evidence of the prime witness." The spying, he commented, amounted to "insider trading," for which "people would go to jail," if it happened in the financial markets.

Members of the former Howard government, including Downer, may have direct personal interests in suppressing this information. However, the geo-political context, bound up with the services provided by Canberra and its spy agencies to Washington, indicates that much more is at stake.

Prime Minister Tony Abbott vehemently defended the A.S.I.O. raids, claiming that the government does not interfere in court cases, "but we always act to ensure that our national security is being properly upheld - that's what we're doing." Labor's opposition leader Bill Shorten quickly closed ranks, lining up with the government to defeat a Senate motion asking Brandis to explain the raids.

By invading a lawyer's office, and persecuting a former A.S.I.S. official, the new government was clearly demonstrating that they would stop at nothing to protect the operations of the Australian intelligence services and their United States patrons. The former spy who is the

star witness in the Timor-Leste espionage allegations against Australia had asked for legal advice in 2004. He had received permission from Australia's Inspector General of Intelligence and Security to take legal advice about his concerns about intelligence gathering in 2004, according to Timor-Leste's lawyer Collaery. The Inspector General of Intelligence and Security monitors the intelligence agencies, conducts inquiries and investigates complaints.

Collaery said that the A.S.I.S. officer, who had his passport confiscated during A.S.I.O. raids at his Canberra home, received the permission from Ian Carnell, who served as Inspector General from 2004 to 2010.

On 6 December the Inspector General issued an unusual public statement to deny that any former spy had raised concerns with her or her predecessor about Australian espionage in Timor. Dr. Vivienne Thom said in the statement that "to the best of my knowledge, no current or former Asis officer has raised concerns with this office about any alleged Australian government activity with respect to East Timor since my appointment in April 2010.

I have spoken to my predecessor and he has confirmed that, to the best of his recollection, no current or former Asis officer raised concerns with this office about any alleged Australian government activity with respect to East Timor during his term as I.G.I.S. and he had no discussion with any former or current Asis officer about any such concerns."

Dr. Thom also said: "The practice of this office is to make detailed records of any concerns raised with it, whether the concerns are raised in writing or orally, and regardless of whether the concerns are in jurisdiction or followed up. A search of our records since 2004 has revealed no record of any former or current Asis officer having raised concerns with us about alleged Australian government activity in East Timor."

And yet, Mr. Collaery, speaking from the The Hague on 6 December, was adamant there was a discussion with I.G.I.S. by the former agent. He said he had the correspondence to support his assertion.

The former A.S.I.O. officer had also retained his own senior counsel, Bernard Grose Q.C., who was in The Hague.

Attorney-General Brandis, who approved warrants for searches of the former officer's home and Collaery's office, rejected suggestions that he was trying to interfere in the international arbitration of the case, in which procedural hearings were to start on 6 December in The Hague.

Brandis had told the Senate on 4 December that these were "wild and injudicious claims" and that the search warrants had been issued at the request of A.S.I.O. to protect Australia's national security.

He said he had instructed A.S.I.O. not to share any material gathered in raids with Australia's legal team in The Hague "under any circumstances."

Timor-Leste's ambassador to Australia, Abel Guterres, said that his country was "deeply disappointed" that Australian intelligence agencies had resorted to raids and thought "fair-minded" Australians would reject the "national security" explanation given by Senator Brandis as ridiculous.

Timor-Leste's ambassador to Australia found the occasion to say: "Our country, Timor-Leste, which came out of 24 years of struggle and trauma, and the subsequent mayhem in 1999, do you think Timor-Leste could possibly pose a security threat to Australia ?"

"Thousands of people in Australia asked the government to help us [during the violence around the autonomy ballot in 1999] and Australia helped us … are we a security threat to Australia, I don't think so, I think any fair-minded Australian would see this as ridiculous."

The Abbott government went further: on 4 December it intensified its legal threats designed to suppress the latest revelations of the Australian bugging of the Timor-Leste government's offices in 2004. Attorney-General Brandis issued a ministerial statement to the Senate, in which he warned that the lawyer representing Timor-Leste, Mr. Collaery, could face serious criminal charges for divulging official secrets.

Until then no Australian lawyer has ever been threatened, let alone prosecuted, for representing a client challenging illegal government activity - in the case, placing listening devices in Dili's cabinet room walls to snoop on Timorese leaders in 2004.

Senator Brandis concluded his ministerial statement with a threat to overturn lawyer-client confidentiality in order to charge Collaery, who was in The Hague for the Arbitral Tribunal hearing. "[M]erely because Mr. Collaery is a lawyer, that fact alone does not excuse him from

the ordinary law of the land." the Attorney General declared. "In particular, no lawyer can invoke the principles of lawyer-client privilege to excuse participation, whether as principal or accessory, in offences against the Commonwealth."

Senator Brandis specifically invoked the *Intelligence Services Act*, which imposes up to two years' jail for a current or former A.S.I.S. officer communicating, without permission, any "information or matter" connected to A.S.I.S.'s functions or performance.

Collaery is being persecuted despite his client, the A.S.I.S. whistleblower, being previously advised by the government's so-called intelligence watchdog, the Inspector General of Intelligence and Security, to hire a lawyer if he wanted an inquiry into the East Timor operation. Collaery told Fairfax Media that I.G.I.S. had refused to investigate the case.

Attorney-General Brandis' ministerial statement advanced a pseudo-legal justification for the 3 December raids, saying that he had issued the warrants under the A.S.I.O. Act, at the request of the A.S.I.O. director-general. That Act hands sweeping powers to the government and its security apparatus to conduct searches and seizures, without judicial warrants, on the vague grounds that any information obtained will "substantially assist the collection of intelligence" connected to a "security matter."

The Act defines "security" to include espionage, sabotage, "politically motivated violence," attacks on Australia's defence system, "acts of foreign interference" and "the protection of Australia's territorial and border integrity." Attorney-General Brandis did not specify which of those grounds he believed was relevant to the exposure of A.S.I.S.'s bugging operations which were aimed at ensuring the flow of billions of dollars of tax revenues flowing to the Australian government and profits to Woodside Petroleum.

Attorney-General Brandis reiterated Prime Minister Tony Abbott's claim that the A.S.I.O. raids had nothing to do with Timor-Leste's impeding legal case. This palpable lie - the raids occurred two days before the hearing began in The Hague - was rejected by Prime Minister Xanana Gusmão. In a media release, Gusmão condemned the "invasion of the premises of a legal representative of Timor-Leste" and "aggressive" action against a key witness, branding it "inconceivable and unacceptable conduct."

The Abbott government's provocative stance has been enthusiastically supported by sections of the media. The *Australian* of 5 December 2013 carried an editorial nakedly to defend the mobilisation of the intelligence services against neighbouring countries for geo-strategic and

corporate gain. “[I]t would be extraordinary to think that any government would not seek to obtain as much information as possible on such a crucial matter of sovereignty.” Murdoch’s flagship declared. “We, unsurprisingly, expect Canberra to work towards our national interest.”

The Abbott government was deeply concerned about the impact of further revelations about its illegal activities by former National Security Agency contractor Edward Snowden.

The Australian reported that as many as 20,000 secret Australian intelligence files could have been accessed by Snowden when he worked at the N.S.A. Attorney-General Brandis had told the newspaper on 4 December: “The Snowden revelations are the most serious setback for Western intelligence since World War II … we are talking about huge numbers of files that Snowden has put into the public domain.”

Events in the Senate on 4 December highlighted the unity within the parliamentary establishment on protecting the intelligence agencies. The Labor opposition moved in lockstep with the government to oppose a Greens’ motion requiring Brandis to provide an explanation for the A.S.I.O. raids. The Attorney-General found a way of praising Labor Senator John Faulkner, a former defence minister, who insisted that it was beyond the power of parliament to demand any such answers.

The Abbott government did not care much that it would risk being seen as a local sheriff riding roughshod over Timor-Leste to get what it wants.

A.S.I.O. raid on the offices of lawyer Collaery was the latest ham-fisted Australian attempt to put the Timorese in their place.

What Australian government officials have never understood or accepted is that the Timorese are committed to being a good neighbour and a reputable international citizen. It was an almost logical consequence and projection of the attitude that Australia maintains in its relations with the United States and powerful transitional interests.

It did not matter much that the proud Timorese, albeit small and poor, have sufficient resources from their oil and gas to retain the best lawyers when they are needed. In the arbitration they would be represented by Sir Elihu Lauterpacht, the doyen of international lawyers, and Oxford’s Professor Vaughan Lowe.

Many Timorese citizens think that Woodside and the Australian government have not conducted themselves at arm's length. They think that people like Alexander Downer and Gary Gray have played roles for Woodside and the Australian government which display too much of a coincidence of interests.

At the arbitration, the Timorese would argue that the C.M.A.T.S. Treaty is invalid because Australia did not negotiate in good faith. There is not only the general requirement of the Vienna Convention on the Law of Treaties, which notes that "the principles of free consent and of good faith" are universally recognised, but also the Timor Sea Treaty, which specifically requires that "Australia and East Timor shall work expeditiously and in good faith to reach agreement on the manner in which the deposit will be most effectively exploited and on the equitable sharing of the benefits arising from such exploitation."

On 5 December, at The Hague, the lawyers were to conduct a preliminary directions hearing.

The Timorese legal team thought this would be the appropriate venue to establish a procedure whereby the arbitration could be conducted with access to all relevant evidence without disclosing the identities of any Australian intelligence officers, past or present. David Irvine, who headed A.S.I.S. when the bugging occurred, is now the head of A.S.I.O. He and Attorney-General Brandis had other ideas about how to maintain security.

As the initial arbitration hearings began in The Hague, it became known that Timor-Leste could rely on four whistle-blowing witnesses and had told Australia their names two weeks before.

On the afternoon of 5 December a group of about 100 Timorese activists demonstrated peacefully across the street from the Australian Embassy in Dili. The embassy was adequately guarded.

The demonstration was totally peaceful, assisted by four local police officers who kept the protesters and the traffic separate. After about an hour, a police 'Task Force' arrived and immediately, without talking with anyone, fired tear gas to disperse the protesters. The demonstrators had issued a statement to the effect that the Movement Against The Occupation of the Timor Sea will continue to protest until Australia changes its policy.

The protesters, mostly students and young Timorese rights activists, carried banners reading: "Australia is a thief" and "Australia has no morals". They shouted: "Australia, imperialist, capitalist!" and "Australia is a thief of world oil."

"The Australian leaders do not respect the people of Timor-Leste because it's very small, very poor." the group's spokesperson told *Agence France-Presse*.

Unfortunately, a Timorese *Agence France-Presse* stringer erroneously reported that stones were thrown at the embassy, a slander eagerly propagated by media in Australia. Top officials of the Australian Embassy and of the Timorese police confirmed to the protest organisers and later to the media that the demonstration was totally nonviolent. Secretary of State for Security Francisco Guterres told the A.B.C. that "the police did not need to work with any force, especially tear gas," although the *Agence France-Presse* journalist remained unconvinced that no tear gas was used. An Australian Special Broadcasting Service radio programme mentioned the false report of rock-throwing but aired and explained the demonstrators' goals.

The Australian government's moves to suppress further exposures of its surveillance operations suffered a blow on 6 December when it was revealed that three more whistleblowers had released statements to the Timorese government about the illegal installation of bugging devices in the walls of Dili's cabinet offices.

Two weeks before a preliminary meeting had been held in The Hague ahead of Timor-Leste's legal claim at the Permanent Court of Arbitration to nullify an oil and gas revenue-sharing treaty because of the Australian spying. The Timorese representatives told the Australian delegation they intended to use the testimony of four Australian whistleblowers to support their case. This information almost certainly triggered the 3 December's A.S.I.O. raids on Mr. Collaery' premises, and the interrogation of one of the whistleblowers, the retired A.S.I.S. technical operations director.

Timor-Leste's government, which condemned the "invasion" of its lawyer's office as "inconceivable and unacceptable conduct," was seeking legal advice on whether it could demand the return of the sensitive documents seized in the raids. According to Collaery, the material includes his own correspondence with Prime Minister Xanana Gusmão, as well as legal opinions by international law experts Sir Elihu Lauterpacht and Professor Vaughan Lowe. If the raids were conducted on the basis of information obtained during the arbitral

procedure in The Hague, that would constitute a legal contempt of the proceedings, entitling Timor-Leste to the return of the documents. The Timorese representatives also revealed that at a second preliminary hearing on 1 December, the Australian government had agreed not to arrest the whistleblowers before the case was heard.

On 5 December, as Timor-Leste and Australia held private talks at the Permanent Court of Arbitration in The Hague, Attorney-General Brandis made another bid to block the hearings. He insisted that the court lacked the jurisdiction to hear the case because Timor-Leste had not "sufficiently engaged in or exhausted the prior consultation machinery" required under the treaty.

Collaery told reporters this was "arrant, misinformed nonsense." The lawyer pointed out that the previous Labor government's foreign minister Carr, and Attorney-General Mark Dreyfus, publicly disclosed Timor-Leste's case in May 2013. At that time, Senator Carr refused to deny the spying allegations, citing the "convention" barring ministers from commenting on intelligence matters.

In fact the Australian government was protecting the 'commercial interests' of Woodside Petroleum and its U.S. consortium partners. Both Abbott's Liberal-National Coalition and the Labor Party have intimate connections with Woodside. The previous Howard government's foreign minister, Alexander Downer, who was in charge of A.S.I.S. in 2004, had been retained by Woodside through a public relations firm which works for Woodside. The former Labor government's resources minister, Gary Gray, had been employed by Woodside from 2001 to 2007.

The length to which the Abbott government, like its Labor predecessor, is going to block the spying revelations indicates that much more is stake than the immediate issue of energy reserves in the Timor Sea. The extensive bugging would have been invaluable as part of Australia's violent 'regime change' operation which had been launched in 2006 against then Prime Minister Mari Alkatiri's *Fretilin* government. This involved the instigation of a split within the Timorese armed forces, and a renewed Australian military intervention.

The Australian government's machinations, always supported by the American administration, flowed from the 1999 dispatch of Australian troops to Timor-Leste, under the pretext of securing the half island's independence from Indonesia. The territory is a highly strategic part of the Indonesian archipelago, which is now pivotal to the United States

defence plans against China. Critical sea lanes, on which China depends for its trade, pass through Indonesia, and have been identified by the Pentagon as ‘choke points’ to be blockaded in the event of war.

It is also clear, from the documents leaked by former N.S.A. contractor Edward Snowden, that the strategic espionage in Timor-Leste is part of a wider pattern. The N.S.A. and its partners in the global U.S.-led ‘Five Eyes’ surveillance network - with Britain, Canada, Australia and New Zealand - have spied on the populations and governments of countries around the world, including tapping the personal phones of German Chancellor Angela Merkel, targeting the Brazilian oil company Petrobras and other international firms. Australian diplomatic missions throughout the Asia-Pacific, including in Indonesia and China, function as N.S.A. listening posts.

Unfortunately, within the Australian political, media and legal establishment there has been a marked absence of condemnation of the A.S.I.O. raids. The Labor opposition has sided with the government. So far the Law Council of Australia, which represents the legal profession, has raised no objection to the Abbott government’s threat to prosecute Mr. Collaery.

On 5 December an editorial in *The* (Melbourne) *Age* concluded: “If Australia has exploited such imbalances in power [with Timor-Leste] for commercial gain, and done so through espionage, then we should be deeply ashamed.”

Given what was becoming known, it was quite legitimate to wonder where, in Timor-Leste’s case for renegotiation of the Timor Sea agreements, is there a threat to the security of Australia.

Too frequently words such as ‘national interest’ and ‘national security’ are bandied about to cover situations in which the government or its agencies are caught up in some operation which cannot be reasonably and publicly justified.

Plainly, successive Australian governments have known for years of Timor-Leste’s allegations about being bugged during the 2004 gas field negotiations and, as a result, wanting the agreement cancelled. And, strictly speaking, this is all about the ‘commercial interests’ of Woodside. The only government interest would relate to any tax that might trickle down from Woodside into the government’s coffers.

The very fact of the raid on Timor-Leste's lawyer and the interference with the prospective witness have now made Australia's spying on Timor-Leste much more widely known than it already was. As to the Attorney-General Brandis' scandalous attack on lawyers and their independence, the Law Council of Australia has been strangely mute.

The hindering of lawyers and witnesses acting against government and important commercial interests is long established.

To get some measure of Australia's attractive negotiating style in the region, one should refer back to former Foreign Minister Alexander Downer language in applying leverage to the then Timor-Leste prime minister, Mari Alkatiri, as documented by a leaked transcript of the negotiations: "We don't have to exploit the resources. They can stay there for 20, 40, 50 years. We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics - not a chance."

This is the same Alexander Downer whose public relations firm, *Bespoke Approach*, has been retained by Woodside since he left office.

It is well known that in May 2009 on Independence Day in Timor-Leste, Alexander Downer went to see Xanana Gusmão and disclosed to him that he was now no longer a politician and since 2007 had not been the foreign minister, but was now acting for Woodside as an advisor. Xanana Gusmão was extremely unhappy at hearing this and that might have been the first time in May 2009 that the Timorese learnt that the former foreign minister had become a lobbyist for the oil and gas company with which they were having so many difficulties.

In this heated atmosphere of accusations and counter-accusations, Mr. Collaery foreshadowed a possible legal action against A.S.I.O. head, Mr. David Irvine over the agency's involvement in the 2004 spying activity.

"Clearly the current director of A.S.I.O. who directed the unlawful break-in to the East Timor cabinet office should be answerable to the law." Mr. Collaery told Australian Associated Press. "I am determined to have Mr. Irvine answer for his actions. It is time the federal police and the Commonwealth Director of Public Prosecutions examines the events that led to the unlawful activities in 2004."

Mr. Collaery renewed his criticism of the seizure of Timor-Leste legal opinions by international law experts Sir Elihu Lauterpacht and Professor Vaughan Lowe along with his own correspondence with Prime Minister Xanana Gusmão.

“[It] illustrates to the world that Australia will break every convention and any rule of law to protect the unlawful activity undertaken in 2004 in respect of the gas revenues in the Timor Sea.” he said.

"It was former Foreign Minister Bob Carr and then Attorney-General Mark Dreyfus who disclosed Timor-Leste’s case in a May 2013 media interview.” the lawyer said.

It was a battle of high positioned lawyer-politicians.

* * *

On 9 December 2013 the Timorese Minister in charge of Petroleum, Alfredo Pires, told Special Broadcasting Service that the government had made a careful archival search.

“We looked through documents quite thoroughly back in those days and we were able to pick up some names, people we believe were part of the teams coming in at different times.”

Four Australians had been identified as spying on the government in 2004. One of them was “a lady spy who was probably part of the team. ... We know espionage is a dangerous game, we do have those names we’ve deducted ourselves, we’ve written in our computers.

Nowadays people can get access to your computers, get information, come into my computers, get the files, if those people are in any way still active in this world carrying out similar work - they happen to be working in some of the AusAID programme - they better take appropriate measures because it could be dangerous for them. Their life could be at risk.”

Minister Pires went on: “The aid program was used for facilitating what was carried out back in Timor. That is something we find very disappointing. Timor Leste has been assisted by Australia quite a bit, particularly AusAID programs, a lot of genuine people doing a lot of good work back in Timor, now we’ve learned this we become suspicious. Who do we trust in the aid program?”

Peaceful protests had been held across the road from the Australian embassy in Dili on 5, 6 and 9 December.

On 11 December 2013 former Timor-Leste president Jose Ramos-Horta warned that Australia should not underestimate the anger of the Timorese people over claims of Australian spying.

Mr. Ramos-Horta, now a special envoy for the United Nations Secretary General, said that he had no idea at the time that Australia would violate their offices. In that position, Ramos-Horta played a key role in lobbying for Australia to win a seat on the UN Security Council in 2012, but he said that had he and the world body known about the spying allegations, it would have been a different story.

“Had we known that Australia was spying on us and spying on our friends... well if (that) news had transpired before the vote for the Security Council a year ago, I doubt Australia would have secured the seat.” he said.

“I don’t know what Australia can do to restore confidence among East Timorese people or leaders. I hope Australia does not underestimate the anger, the disappointment that its bugging ... is causing.” he told A.B.C. radio.

Mr. Ramos-Horta said that such actions would be understandable if Australia was spying on an enemy country.

“But when you try to listen in to phone conversations of the president of Indonesia, a friendly country or his own wife, or when you spy on a friendly neighbour like Timor-Leste which Australia helped to free in 1999 and which Australia claimed to be a friend, well it really undermines 10 years of our relationship.

Australia likes to lecture Timor-Leste and other countries about transparency and integrity in public life. Well, this has not been a very good example of transparency and honesty.” he said.

On the same day *The* (Melbourne) *Age* editorialised: “ ... The allegations have emerged as Australia and East Timor enter the first stages of arbitration to resolve a dispute over the gasfields treaty, and they come less than a week after the Australian Security Intelligence Organisation raided the Canberra home and offices of an Australian lawyer working for East Timor. A.S.I.O. also raided the home of a former Australian Secret Intelligence Service officer who is said to be prepared to blow the whistle on the 2004 operation.

East Timor believes it was short-changed in the treaty because, in its view, Australia acted in bad faith by spying on its negotiators. As *The Age* has said, it is morally repugnant for a wealthy nation such as Australia to take advantage of a deeply impoverished one by spying

on it for commercial advantage. To excuse such actions as being in the national interest is breathtakingly cynical."

In the midst of so much commotion, Natural Resources Minister Pires announced that Timor-Leste was ready to develop the Greater Sunrise gas fields "tomorrow" but that the country would refuse to yield to Woodside's preference for a floating project.

The Minister said that he had major reservations about floating liquefied natural gas technology, questioning whether the massive vessels could withstand extreme weather. "Things can go wrong with new technology and we don't have money to burn." he said.

Timor-Leste instead wants a processing plant on its shores and says that it will cost about AUS$ 13 billion, not $ 18 billion as suggested by Woodside.

In September 2013 the impoverished nation offered to contribute AUS$ 800 million from its AUS$ 14 billion petroleum fund towards the pipeline costs.

"We can sit down, discuss, maybe cover a few more things." Mr. Pires told Australian Associated Press.

He said that the results of front-end engineering and design studies for the onshore option would have been revealed in the near future.

"Timor-Leste continues to press on with the option. It's much more viable than what we have been led to believe. ... The advantages were obvious. Gas could be taken from an onshore plant 365 days a year, compared to 320 days a year "at best" out at sea, depending on where the vessel was positioned." he said.

Floating processing was good for stranded fields, but that was not the case with Greater Sunrise, situated about 150 kilometres from Timor-Leste but some 430 kilometres from Australia, Mr. Pires said.

Gas from the Bayu-Undan field in the Joint Petroleum Development Area between the two countries had been piped to Darwin, but it was Timor-Leste's turn to have its way.

"I think it's only fair that we get this other one." he said. And he added enthusiastically: "We're ready to go tomorrow."

* * *

On 9 January 2014 Timor-Leste Prime Minister Xanana Gusmão announced that he will retire as leader of the island nation in September this year.

Mr. Gusmão announced he would reshuffle his Cabinet in August.

Just in late December 2013, after a meeting with Timor-Leste President Taur Matan Ruak, Mr. Gusmão, speaking in his native language *Tetum*, had said that he had "informed [the President] that my decision to step down has not changed. Only the time has changed to sometime during 2014. I feel that conditions and other necessary things must be prepared first."

On 17 December 2013 Timor-Leste brought Australia to the International Court of Justice in The Hague, demanding the return of documents and other material taken when A.S.I.O. had raided Mr. Collaery's office two weeks earlier.

The Court had set aside three days, 20 to 22 January 2014, to hear the dispute.

On 20 January 2014 Timor-Leste's lawyers presented their argument that Australia had engaged in "unprecedented, improper and inexplicable" conduct in the raid on Mr. Collaery's office, asking that the materials taken be returned or sealed, although Australia's Attorney-General had promised not to read them.

On 21 January 2014 a two-hour hearing was dedicated to Timor-Leste's opening submissions, with Australia set to present its opening arguments on the following day. The Court was told that Australia's "illegal" seizure of documents from the Canberra-based lawyer acting for Timor-Leste, was falling short of the high standards expected of a nation with considerable international standing.

Timor-Leste's representatives used their opening submissions to the Court to denounce the raid by A.S.I.O., arguing national security interests were "not some magic wand" which allowed a country to wave away its obligations under international law.

Timor-Leste contended that the documents and electronic data removed from the offices of Mr. Collaery feature highly confidential, legally privileged correspondence with the government of Timor-Leste, including information about its strategy in the pending arbitration under the Timor Sea Treaty with Australia. In that dispute, Timor-Leste argues a 2006 agreement to extend the crucial oil and gas treaty is void because Australia conducted the negotiations in bad faith by allegedly bugging the Timor-Leste cabinet room to gain an unfair advantage.

Timor-Leste was seeking an urgent ruling from the Court ordering Australia to deliver to the Court the documents and data seized from Collaery's premises, to destroy any copies, and to provide a list of which documents were passed to which people, along with their job

description. Australia is to "give an assurance that it will not intercept or cause or request the interception of communications between Timor-Leste and its legal advisers."

"In addition to the return of our property, Timor-Leste is seeking the protection of all its communications that attract legal privilege." the country's minister of state, Agio Pereira, said in a statement.

One of the lawyers appearing at the Court for Timor-Leste, Sir Elihu Lauterpacht, Q.C. said that Australia's unconscionable conduct "manifestly distorts the character of the future negotiations by placing Timor-Leste at a considerable negotiating and litigating disadvantage." Lauterpacht said that Timor-Leste aimed "to prevent with immediacy Australia from deriving any further benefit from the internationally illegal seizure" of the documents. He contrasted Australia's status "as large, powerful and rich in natural resources with the weaker position of its 'much smaller and much poorer' neighbour.

This unprecedented and improper, indeed, inexplicable conduct, compounded at various times by self-contradictory statements, on behalf of Australia, is not the behaviour of some state that does not subscribe to normal standards of international legal behaviour. Rather, it is the behaviour of a state of considerable international standing." Lauterpacht told the Court.

Lauterpacht said that he regretted appearing in a case against Australia as he had served as the principal legal adviser of the Department of Foreign Affairs between 1975 and 1977.

"During that time I conceived a deep affection and a high regard for that country, so it is saddening for me that in this case I'm obliged to confront Australia in respect of conduct which inexplicably falls so far short of the high standards that prevailed in my time." he said.

Lauterpacht told the Court: "Despite the circumstances surrounding the present case, this is not a case about spying and espionage. The Court will not have to pronounce on such activities generally. Rather the case is a relatively simple one: one state has taken the property of another and should be required to give it back, untouched and without delay."

Timor-Leste's lawyers attempted to neutralise some of Australia's arguments, including suggestions that Timor-Leste could have taken action in Australian domestic courts.

Sir Michael Wood, for Timor-Leste, said: "The existence of remedies under Australian law, even if they could be shown to be effective, is not relevant in the present situation where a sovereign state complains about a direct interference with its rights under international law." Wood said it was also irrelevant that the seized documents were "brought within or created within Australia."

“It does not amount to a waiver of the rights which Timor-Leste has under international law in respect to its property.” he said. “Were it otherwise it’s difficult to see any foreign state seeking advice of lawyers in Australia.” Referring to Australia’s national security argument, Wood said: “The court should indeed be prudent but national security and the enforcement of criminal law are not some magic wand that makes the rights and obligations of states under international law vanish.”

It was true that on 3 December 2013, after the raids were carried out, Attorney-General Brandis rejected allegations that the warrants were “issued in order to affect or impede the current arbitration between Australia and Timor-Leste at The Hague.” The Attorney-General said: “I have instructed A.S.I.O. that the material taken into possession is not under any circumstances to be communicated to those conducting those proceedings on behalf of Australia.”

But Lauterpacht said that Attorney-General Brandis’ undertakings were “silent upon the availability of these very sensitive and confidential documents to those Australian officials involved in maritime delimitation matters.”

Lauterpacht said that the seized iPhone, laptop, USB thumb drive and other documents may contain “a very wide and miscellaneous range of materials” which were legally sensitive including matters not directly related to the arbitration. He said that Collaery’s office had been working on many files on behalf of the Timor-Leste government and they were therefore the property of Timor-Leste. “This is fully in line with the generally accepted proposition that the client, in this case the government, has proprietary ownership of documents that had been brought into existence or received by a lawyer acting as agent on behalf of the client, or that had been prepared for the benefit of the client and at the client’s expense.”

Lauterpacht said that Australia failed to recognise “that the seizure of another state’s property is as much a violation of international law as would be the seizure of any part of another state’s territory - it is a matter of scale, not of quality.”

The Timor-Leste ambassador to the United Kingdom, Joaquim da Fonseca, appearing before the Court, said that present-day relations between the two countries were “close and friendly”, but national resources of the sea remained a “serious bone of contention”.

“The government and people of Timor-Leste feel a real sense of grievance at the manner in which they have been treated by our last neighbour in this respect. To their credit, there are

many in Australia who share our discontent." da Fonseca said. "Timor-Leste has now initiated arbitration under article 23 of the Timor Sea Treaty. Then, in complete disregard and disrespect of our sovereignty, Australian secret agents have seized papers relating to the arbitration proceedings as well as other important legal matters between Timor-Leste and Australia. That has caused deep offence and shock in my country."

On 21 January 2014 a judge from Somalia - a tiny impoverished land which in recent times has come to know a thing or two about how people get away with taking other people's stuff - went to the substance and asked whether big, rich Australia had taken stuff that belonged to tiny, poor East Timor.

Dr. Abdulqawi Ahmed Yusuf's question was clear and simple: "To whom did the individual items listed in the A.S.I.O. property seizure record of 3 December 2013 and their content belong at the time of the seizure?"

At the end of two long-winded days of submissions from learned barristers reaching for all manner of arcane international precedents to support sharply polarised arguments, Judge Yusuf's question was refreshingly uncomplicated, and almost naïve among 'learned friends' who often use hundreds of words when a few would suffice.

Australia had provided some idea of its response before Judge Yusuf had even asked the question. "To place classified information in the hands of a foreign state is a serious wrong to Australia." said the Australian Solicitor-General Justin Gleeson, S.C. Mr. Gleeson had already told the Court that Timor-Leste may have perpetrated a little pilfering of its own, by allegedly obtaining Australia's classified information from a rogue former spy from the A.S.I.S. who has claimed that Australia bugged Timorese officials during negotiations over oil and gas resources in the Timor Sea.

The day before, 20 January 2014, Timor-Leste's counsel had told the Court that it was concerned Australia would improperly use the seized material in any new negotiations between the two countries. But Australia dismissed those concerns as unfounded and, indeed, offensive.

Mr. Gleeson told the Court that Attorney-General Brandis had made a new and broader undertaking overnight to contain the seized material, vowing he would not even read them himself. The documents and data - Mr. Gleeson claimed - would not be available to anyone in government for any purpose apart from the protection of national security.

Mr. Gleeson continued by saying that Timor-Leste's chief counsel, Sir Elihu Lauterpacht, had impugned Brandis's integrity and conduct with his "inflammatory" questioning of Brandis' sincere intention to abide by this undertaking over the seized documents. Sir Elihu's remarks were - Mr. Gleeson claimed - "frankly, offensive".

It would also be a "quantum leap" by the Court, Mr. Gleeson said, to agree with Timor-Leste's assertion on [20 January] that A.S.I.O.'s seizing of the documents was akin to an invasion of sovereign territory.

As for Sir Elihu's observation that Australia's sovereign regard for accepted international standards in law and behaviour had deteriorated dramatically since he worked as a lawyer for the Department of Foreign Affairs in Canberra in the mid-1970s, Mr. John Reid, Australia's formal agent before the Court, said that assertion was "wounding". Attorney-General Brandis - he said - had given the matter his "most conscientious attention".

On 22 January 2014 Timor-Leste's counsel told the Court that it rejected the "careless and outrageous" suggestion it was encouraging the violation of Australian laws about intelligence secrets, as Australia warned lives could be put at risk by the disclosures.

In their final arguments to the Court, Timor-Leste and Australia disagreed over the adequacy of undertakings given by Attorney-General Brandis that documents seized from Timor-Leste's Canberra-based lawyer on 3 December would not be used for any matter other than national security.

Australia's legal team submitted that raid by A.S.I.O. was motivated by real concerns that a former officer of A.S.I.S. had disclosed the identities of serving or former officers, potentially endangering them and their families.

Timor-Leste was seeking urgent orders from the Court that Australia surrender the documents seized from the offices of Mr. Collaery, to prevent further harm ahead of a proper examination of the case at a later date. Australia argued the provisional measures sought by Timor-Leste are unnecessary, in part because of the "comprehensive" undertakings designed to address the country's concerns.

Lauterpacht acknowledged the right of a state to protect itself, but asked whether Australia was "protecting itself from the likely revelation that Australia's security seriously and illegally entered Timor-Leste under false pretences" and "surreptitiously placed devices in the government offices of Timor-Leste, eavesdropped, and extracted information to which they were not entitled."

During the 22 January 2014's closing arguments, Lauterpacht reaffirmed Timor-Leste's claim that it owned the documents which were seized on 3 December.

Timor-Leste's ambassador to the United Kingdom, Joaquim da Fonseca, told the Court that he objected to Australia's suggestion that Timor-Leste may be encouraging the commission of crime which threatened Australia's national security. "My government is committed to pursue justice in this court. It is equally committed to pursue mutual interests between Timor-Leste and Australia through broader bilateral co-operation. Such expression of distrust falls short of a recognition and appreciation of our broader relationship. I must firmly reject this careless and outrageous suggestion." he said.

But Australia's Solicitor-General Gleeson, said that he had expressed his concerns as a "reasonable apprehension" rather than an assertion of fact.

Mr. Gleeson pointed to news reports and interviews which suggested disclosures had been made about the identities of Australian intelligence officers and operations. "The first proposition is that Mr. Collaery, as agent for Timor-Leste, has received into his possession a witness statement and affidavit from a former A.S.I.S. officer whom I will for convenience label as X." Mr. Gleeson said. "The second is that although the precise content of that document is not known to us it is apparent from what Mr. Collaery has said publicly that the subject matter contains information relevant to an alleged operation of A.S.I.S. in Dili in 2004, which would be information caught by section 39 of the [*Intelligence Services Act* 2001]. The third, perhaps even more concerning, is that Mr. Collaery, as agent for Timor-Leste, has chosen to republish that information, the information he says was obtained from the agent widely in the media in Australia, thereby accessible throughout the region and the world. The fourth is that Timor-Leste proposes to tender and rely upon documents which would appear to be these same disclosures as its evidence in the arbitration. The fifth is that Timor-Leste has argued vigorously that the arbitration should not be subject to confidentiality so that the claims should be made further public. The sixth and last point which is of particular concern to Australia is that there is an apprehension that Timor-Leste, through Mr. Collaery, having obtained information from X, has used that information as a basis as a springboard … from which to make further enquiries, the result of which it now says publicly has led it to identify four persons who it says were involved in an operation against Timor-Leste in 2004. It further has said publicly it now accepts there is a risk to the safety of those persons because they have been identified and if their names were revealed publicly."

Mr. Gleeson said he was not saying senior Timor-Leste officials had an intention to publish the names of officers or harm the lives of those persons.

“But I trust you will now see we have a situation where Australia is being asked to accept that the conscience of Mr. X, the conscience of Mr. Collaery, and the conscience of senior Timorese officials is to be the guard of the safety of Australian lives and Australian security information. I must say to you … that is unacceptable.”

The Australian legal team was asked why the search warrants were executed on 3 December, several days before the arbitral hearing. Mr. Gleeson said this was because Australia had information about a real risk that X had made disclosures of information to Mr. Collaery, would make further disclosures, might leave Australia within a matter of days with no certainty of return, and might destroy documents or data relating to such disclosures.

This led to the cancellation of X’s passport and the execution of warrants on X’s premises and on Mr. Collaery’s premises.

Lauterpacht said it was “a cause of regret” that he should have offended the Australian government and former colleagues when he remarked on 20 January 2014 that standards had slipped since the time he worked as a senior official in the Department of Foreign Affairs in the 1970s.

“If I may have sounded harsh, there was no intention to hurt; but the word ‘inexplicable’ was the only word I could think of to describe the what and the why and the when of the seizure of the property in Canberra - property belonging to the government of Timor-Leste.” Lauterpacht said.

Lauterpacht said that, in balancing the interests at stake in this matter, Australia placed all the emphasis on its own interests. Noting Australia had made “indirect threats” aimed at Mr. Collaery and a witness, Lauterpacht said it was possible a prosecution could be started in Timor-Leste against those responsible for the bugging operation.

He said that Attorney-General Brandis’s undertakings on the non-use of the materials for anything other than national security and criminal prosecutions “should be backed up by an order of the Court.”

The Court will make a decision on Timor-Leste’s request for provisional orders on a date to be announced.

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On 28 December 2013 Kirsty Sword-Gusmão, the Australian-born wife of Timor-Leste's Prime Minister, wrote of her "disgust" at Australia's "act of hostility towards the people of my adopted homeland."

All Australians who value justice and fairness must again be feeling very ashamed at the recent revelations of what lengths Australian governments have gone to gain a great advantage over Timor-Leste, the poorest nation in the region, when negotiating the oil treaty between the two countries in 2006.

Soon after the raid on Mr. Collaery's office a poll indicated that 87 per cent of the persons consulted did not accept that the raid was a matter of national security - 12 per cent held the other way.

Public opinion be damned. The *charade* would continue.

It is unlikely that Australia will issue a formal apology in relation to the Timor-Leste espionage, in the same way that it refused to apologise in the plain English commonly accepted outside 'the Anglosphere' for the leaked surveillance report involving Indonesia. But Australia should rethink its stance, as failure to act on this matter will only antagonise what were once friendly neighbours. Arrogant post-colonial bullies, particularly while in the service of international capital, do not apologise. At best they may 'regret' - uncomfortably and patently insincerely. It is one of the few fundamental axioms of wholesome, Empire-dreaming, 'British living'. And the motto ? *Enrichez vous !*

It has actually been a very challenging two-month period for Australian diplomats in Southeast Asia: they have either had to explain or deny the various spying allegations involving their government and a number of countries in the region. Aside from Indonesia and Timor-Leste, the Malaysian government also summoned its Australian envoy about the reported 'intelligence' sharing network maintained by the United States in the region, which included the posting of espionage equipment inside the United States Embassy in Kuala Lumpur. The Australian governments - regardless of who of the two right-wings of that bird which is the sub-tropical Westminster System is in office - like to see themselves as a major player in this 'surveillance' network, which monitors communication signals in the Asia-Pacific.

The truth is that the 'national interest' and 'national security' as defined by successive federal governments are utterly arbitrary concepts reworked from time to time. Australian governments volunteer, confirm - even leak - stories about 'intelligence' which suit

them politically and strategically. Example ? the decision earlier this year publicly to confirm the 'intelligence' about Australians who are returning from fighting in Syria.

No reasonable, well educated and informed person could understand and explain why a self-proclaiming democratic country like Australia, which says to respect human rights and the rule of law for its own citizens, is unwilling to apply those principles to its northern neighbour. Is Australia so afraid of a fair boundary settlement that it would rather continue to be a bully - perhaps for commercial interests of foreign companies much as it is already a puppet of its 'great and powerful friend' - than a good international citizen? If the answer to the questions is yes, then one would understand why Australia continues to exploit advantages it obtained during the shameful and bloody Indonesian occupation of Timor-Leste.

Some hints of long-standing duplicity on Timor Sea oil rights may come on considering a recent episode: on 8 January 2014 the Australian Department of Foreign Affairs and Trade succeeded in having the National Archives censor a 27-year old Australian 'Labor' government cabinet minute concerning "Australia-Indonesia relations: prospects and approach", a Cabinet document on maritime boundary talks surrounding the disputed Greater Sunrise gas deposit released on 1 January 2014. The 1987 document details negotiations between Australia and Indonesia over a joint development zone. The 31-page document was released with entire pages blacked out to avoid revealing the reasons not to define the maritime boundary. Foreign Minister Julie Bishop said that the Department censored the 27-year-old file because material which could cause damage to the security, defence or international relations of the Australia can be withheld under the *Archives Act.*

The episode defines Australia: 'concerned' with the powerful neighbour and bullish with the poor Timor-Leste.

It is the kind of attitude which is best expressed in the recent contemptuous cynicism of former Foreign Minister Downer: "Well, [the Timorese] didn't have to sign the treaty. No one forced them to." It was Downer who made the key decision, only two months before Timor-Leste's independence in 2002, with the Coalition in government, "to withdraw" Australia from the maritime jurisdiction of the Permanent Court of Arbitration.

Australia's self-proclaimed "best Foreign Minister" Alexander Downer is up to his old tricks. As if his involvement with A.W.B. wasn't already obvious. And what was that ? The A.W.B. oil-for-wheat scandal refers to the payment of kickbacks to the regime of Saddam Hussein in

contravention of the United Nations Oil-for-Food Humanitarian Programme. Downer was involved in it down to his political neck. How pathetic it is to think that, under the disguise of AID assistance to a new country, an immoral, dishonest commercial decision could be made to justify these actions. People may wonder why these whistleblowers come forward but these individuals are motivated not by Downer's 'Messiah complex', but by the desire to act in a fair and reasonable manner, to build a relationship which lasts well beyond just one project, one contract, or one treaty. On the international standing list Australia is ever dropping down to the area usually reserved for countries where despots and dictators rule. There will doubtless be more whistleblowers in future and this current 'theo/cons' government will win very few points for openness, honesty and friendship. Prime Minister Tony Abbott's often-repeated slogan that Australia is "open for business" is being embraced by lobbyists, with dozens of the biggest companies having signed up to Coalition-aligned influence peddlers already this year for representation in Canberra. The *Cabalists* are at the trough.

The torrent of activity in the increasingly partisan lobbying industry has in turn sparked a mini jobs boom for former Howard government ministers, retired Coalition MPs and Liberal operatives.

The Howard-era Finance Minister has joined the Howard-era Foreign Minister Downer at *Bespoke Approach*, the client list of which includes *Woodside*, *Wesfarmers*, coal seam gas miner *Santos* and others big names, whether of the climate change denier band or of the 'environment lite-concerned' troop. Former Howard-era Treasurer co-shares in Melbourne-based *E.C.G. Advisory Solutions*; among the major clients are *Westpac*, one of the four oligopolistic Australian banks, *Transurban*, the well-known international toll road developer and owner, and the infamously-known detention centre operators *Serco*.

Not all of influence peddlers appear on the official register of lobbyists. In this new entrepreneurial world they are only 'special advisers' - no need for transparency. Conflict of interest ? Oh, go on ! And, after September 2013, the money bags and the bean counters are moving from one side of what is considered 'politics' to another, from 'Labor' lobbies to 'Liberal' lobbies.

Well might have Mr. Abbott declared, soon after his victory that "you can either be a powerbroker or a lobbyist but you can't be both." In Howard-like s/language that was a 'non-core promise'.

The newly appointed head of the Australian Governor-Generalate, formally the representative of the Hanoverian queen, a former commander of Australian invaders of Vietnam on a 1962 lie of the Menzies Government, headed the 1999 ‘humanitarian’ exercise to protect the Timorese people. The intervention provided a pivotal post-Vietnam war precedent for military troops to be dispatched to protect ‘Australian’ corporations predatory interests - in the case Woodside - for the Timor Sea’s oil and gas fields. The Timor operation was seen as an opportunity to end the ‘Vietnam syndrome’ left by the mass hostility which developed to the deployment of the military as a result of the Vietnam war.

After a thirty years’ fight the Vietnamese won their freedom. It is easy to despair and conclude that the poor have no defence. Still, the Timorese may obtain justice in The Hague.

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* Dr. Venturino Giorgio Venturini devoted some sixty years to study, practice, teach, write and administer law at different places in four continents. He is grateful to the friends at *La’o Hamutuk* - The Timor-Leste Institute for Development Monitoring and Analysis in Dili - for priceless information. He may be reached at George.Venturini@bigpond.com.