

Annex 23:
Exchange of Correspondence between Australia and Timor-Leste on
Transitional Arrangements for Bayu-Undan and Kitan
of 13 October 2017



13 October 2017

H.E. Mr. Hermenegildo Pereira
Deputy Minister to the Prime Minister for the Delimitation of Boundaries
Agent for Timor-Leste

Your Excellency

Exchange of Correspondence on Bayu-Undan and Kitan Transitional Arrangements

I have the honour of referring to recent discussions between officials of the Government of Australia and the Government of Timor-Leste (hereinafter referred to as the Parties) under the auspices of the Conciliation Commission established pursuant to Article 298 and Annex V of the *United Nations Convention on the Law of the Sea* concerning transitional arrangements for the Bayu-Undan Gas Field (subject to PSC JPDA 03-12 and PSC JPDA 03-13) and the Kitan Oil Field (subject to PSC JPDA 06-105) in the Timor Sea, forming part of the negotiation of the *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea* ('the Treaty').

I write to set out the following steps that the Parties have determined will take place expeditiously and be completed prior to the entry into force of the Treaty.

The Joint Commission, as established under Article 6(c) of the Timor Sea Treaty, will approve:

- (a) the entry into revised production sharing contracts by the relevant Timor-Leste statutory authority, amended as necessary to take into account the terms of the Treaty, relating to the Bayu-Undan Gas Field and the Kitan Oil Field;
- (b) the continuation following the entry into force of the Treaty of any approved work programmes, expenditures and regulatory approvals relating to the Bayu-Undan Gas Field and the Kitan Oil Field which are applicable on the date the Treaty enters into force;
- (c) the Interim Petroleum Mining Code as it applies to the Bayu-Undan Gas Field and the Petroleum Mining Code as it applies to the Kitan Oil Field, and any subsidiary instruments entered into under those Codes, amended as necessary taking into account the terms of the Treaty, for the purposes of incorporation into Timor-Leste's domestic legislation; and
- (d) the Interim Regulations as they apply to the Bayu-Undan Gas Field and the Kitan Oil Field, and any subsidiary instruments entered into under those Regulations, amended as necessary taking into account the terms of the Treaty, for the purposes of incorporation into Timor-Leste's domestic legislation.

Timor-Leste will incorporate the following regulatory arrangements, as approved by the Joint Commission in accordance with the above, into its domestic legislation:

- (i) the Interim Petroleum Mining Code;
- (ii) the Petroleum Mining Code; and
- (iii) the Interim Regulations.

Timor-Leste will include in its arrangements with the contractors of the Bayu-Undan Gas Field and Kitan Oil Field provisions that provide for:

- (a) the stability of the regulatory arrangements referred to in the above paragraph; and
- (b) the continuance of the fiscal regime on conditions equivalent to the fiscal regime in place on the date this arrangement takes effect.

I hope and trust that the preceding accords with Timor-Leste's understanding and look forward to your confirmation that this letter and your reply will constitute an arrangement between the Parties, which will take effect on the date of signature of your reply.



Mr. John Reid,
Agent for Australia

cc: Mr. Francisco da Costa Monteiro, Timor-Leste Joint Commissioner
(by email: francisco.monteiro@timorgap.com)

Mr. Antonio Jose Loyola de Sousa, Timor-Leste Joint Commissioner
(by email: antonio.sousa@timorgap.com)

Mr. Bruce Wilson, Australian Joint Commissioner
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Members of the Conciliation Commission
(by email: gschofield@pca-cpa.org, m DOE@pca-cpa.org)



GABINETE DO MINISTRO ADJUNTO
DO PRIMEIRO-MINISTRO PARA
DELIMITAÇÃO DE FRONTEIRAS

VII GOVERNO CONSTITUCIONAL



Gabinete do
Ministro

Ref :03/X/2017

13 October 2017

Mr. John Reid
Acting Deputy Secretary
Commonwealth Attorney-General's Department
Agent for Australia

Dear Mr. Reid,

Exchange of Correspondence on Bayu-Undan and Kitan Transitional Arrangements

I refer to your letter of 13 October 2017, the terms of which are set out below.

I write to set out the following steps that the Parties have determined will take place expeditiously and be completed prior to the entry into force of the Treaty.

The Joint Commission, as established under Article 6(c) of the Timor Sea Treaty, will approve:

- (a) the entry into revised production sharing contracts by the relevant Timor-Leste statutory authority, amended as necessary to take into account the terms of the Treaty, relating to the Bayu-Undan Gas Field and the Kitan Oil Field;
- (b) the continuation following the entry into force of the Treaty of any approved work programmes, expenditures and regulatory approvals relating to the Bayu-Undan Gas Field and the Kitan Oil Field which are applicable on the date the Treaty enters into force;
- (c) the Interim Petroleum Mining Code as it applies to the Bayu-Undan Gas Field and the Petroleum Mining Code as it applies to the Kitan Oil Field, and any subsidiary instruments entered into under those Codes, amended as necessary taking into account the terms of the Treaty, for the purposes of incorporation into Timor-Leste's domestic legislation; and
- (d) the Interim Regulations as they apply to the Bayu-Undan Gas Field and the Kitan Oil Field, and any subsidiary instruments entered into under those

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Timor-Leste will incorporate the following regulatory arrangements, as approved by the Joint Commission in accordance with the above, into its domestic legislation:

- (i) the Interim Petroleum Mining Code;
- (ii) the Petroleum Mining Code; and
- (iii) the Interim Regulations.

Timor-Leste will include in its arrangements with the contractors of the Bayu-Undan Gas Field and Kitan Oil Field provisions that provide for:

- (a) the stability of the regulatory arrangements referred to in the above paragraph; and
- (b) the continuance of the fiscal regime on conditions equivalent to the fiscal regime in place on the date this arrangement takes effect.

I have the honor to confirm that the terms of your letter as set out above are acceptable to the Government of the Democratic Republic of Timor-Leste and that each of the actions detailed in your letter will occur expeditiously and will be completed prior to the entry into force of the Treaty.

I have the further honour to confirm that your letter together with this reply will constitute an arrangement between Timor-Leste and Australia which will take effect on the date of signature of this letter.


H.E. Mr. Hermenegildo Pereira
Agent for Timor-Leste

cc: Mr. Francisco da Costa Monteiro, Timor-Leste Joint Commissioner
(by email: francisco.monteiro@timorgap.com)

Mr. Antonio Jose Loyola de Sousa, Timor-Leste Joint Commissioner
(by email: antonio.sousa@timorgap.com)

Mr. Bruce Wilson, Australian Joint Commissioner
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Palácio do Governo,
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Dili, Timor-Leste