

# Heed law of the sea and set a fair Timor border

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Only a permanent boundary will provide certainty for the vast resources to be exploited.



Illustration: Jim Pavlidis

Indonesia isn't the only country in our region upset about Australia's spying. East Timor has accused Australia not just of spying on it, but of doing so for economic gain. Earlier this year, East Timor launched an arbitration process arguing that a key treaty concerning lucrative oil and gas resources in the Timor Sea was not valid because Australia had spied on Timor's negotiating team and bugged the Timorese cabinet room.

The airing of the allegations last week on the ABC's 7.30 along with comments by East Timor's Secretary of State, Agio Pereira, suggest East Timor may even be prepared to scuttle existing temporary resource-sharing agreements in an attempt to bring Australia back to the negotiating table in the hope of securing a permanent and more equitable solution.

It's becoming increasingly clear that the Abbott government must finish the job in the Timor Sea and establish permanent maritime boundaries with East Timor. Only permanent boundaries can put a stop to niggling disputes over contested gas and oil resources and also provide certainty for the companies wanting to exploit them.

Saying Australia has an extremely mixed record when it comes to its role in the history of East Timor is somewhat of an understatement.

Many hoped the Australian-led peacekeeping mission in 1999 would not only be a great redeeming act, but would mark the beginning of a new era in which Australia would finally and unreservedly respect the sovereignty of its tiny neighbour. However, three years later, in 2002, two months before East Timor's independence, Australia made a decision that set a very different tone. It withdrew its recognition of the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea.

By turning its back on the independent umpire, Australia knew East Timor would have no legal avenue to stop Australia from unilaterally depleting contested oil and gas resources in the Timor Sea. This gave Australia an immense advantage when it begrudgingly agreed to sit down at the negotiating table in 2005.

East Timor, understandably, like any sovereign country, wanted to establish permanent maritime boundaries and it wanted to do so in accordance with international law. Australia had other ideas and successfully jostled Timor into yet another temporary resource-sharing agreement that required the establishment of permanent boundaries to be postponed for 50 years.

At the beginning of 2006 the two countries signed the Treaty on Certain Maritime Arrangements in the Timor Sea, which would split 50-50 the upstream revenues to be generated by the massive Greater Sunrise gas field.

The field, which is expected to generate about \$40 billion in government revenues, lies just over 100 kilometres from East Timor's coastline. If permanent maritime boundaries were established in accordance with current international law the field would lie entirely within East Timor's exclusive economic zone.

Since the 1982 United Nations Convention on the Law of the Sea, international law has strongly favoured median line boundaries between countries less than 400 nautical miles apart - that is, draw a line halfway between the two countries' coastlines.

While there are 80 examples of the median line resolving such claims, there is only one exception; the 1972 Australian-Indonesian seabed boundary.

Further, in 2004, when Australia and New Zealand established a maritime boundary to resolve overlapping claims off Norfolk Island, Australia agreed to a median line boundary. Evidently, adhering to current international law is easier when billions of dollars in government royalties from oil and gas resources are not at stake.

Australia's belated intervention in 1999 is often touted as one of prime minister John Howard's great achievements during his time in office - including by Mr Howard himself. But if the goodwill and spirit of mateship that Australia's peacekeeping missions have helped foster are to mean anything, we must stop short-changing East Timor when it comes to its oil and gas resources.

Since 1999 the Australian government has possibly taken more in contested oil and gas royalties than it has given to East Timor in combined military and humanitarian aid. This is not about charity. It's not about helping East Timor out. The people of East Timor simply want what they are legally entitled to - no more, no less.

Establishing permanent maritime boundaries with East Timor in accordance with international law is Tony Abbott's one chance to preserve the legacy of his mentor's intervention.

Setting permanent boundaries in accordance with international law is the right thing to do, but it will also provide more economic certainty for both countries and for the companies seeking to develop the contested oil and gas resources.

Support in Australia for our East Timorese neighbours runs deep. Calls for a fairer deal rooted in the principles of current international law are likely to resonate with many Australians who will refuse to accept the inherent injustice of allowing a wealthy and powerful country such as ours to try to deprive one of the poorest countries of its own natural resources.

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