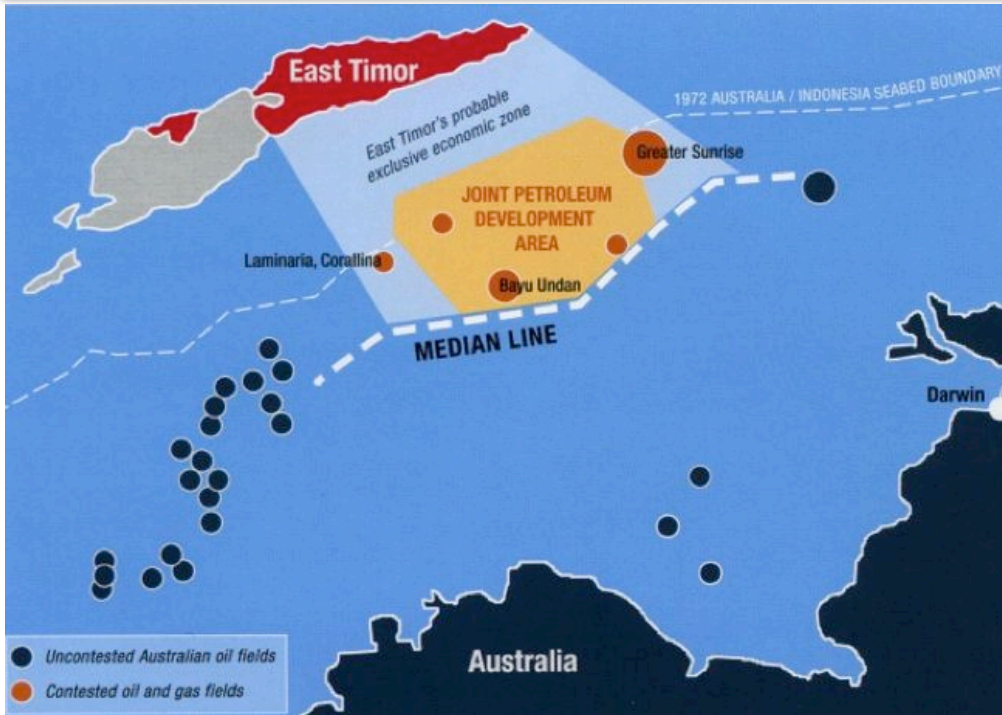


Time for

# FAIR BORDERS in the Timor Sea



There is  
no dispute  
about  
resources  
on  
Australia's  
side  
of  
the median line

We invite our partner and neighbour Australia to come to the table, in good faith, to draw the line." Agio Pereira, Minister of State, Timor-Leste 2014

## OUR BELIEFS

Australia values **fairness**. Australia has responsibilities and should operate according to **international law**.

**Australia's integrity and international standing** are affected by its decisions and actions.

Timor-Leste is just as entitled as **Australia's other neighbours** to permanent maritime boundaries.

## THE ISSUES

There are disputes between Australia and Timor-Leste over resources in the Timor Sea. **All disputes concern areas on Timor's side of half-way in the Timor Sea.**

Time to **DRAW** the LINE

Just two months before East Timor become independent in 2002, Australia withdrew from the maritime boundary jurisdiction of the International Court of Justice. By turning its back on the independent umpire Australia left East Timor with no legal avenue to challenge Australia's actions.

Australia is seen to have not acted in good faith when negotiating the **Greater Sunrise** oil and gas issues in 2004.

Current practice in maritime boundary determinations is to use **median line principles**, which are complicated but are internationally accepted as fair, e.g. that agreed between Aust. & N.Z. in 2004.

Australia and Timor-Leste need to decide on **fair, permanent boundaries** based on current international law and practice.

## THE EFFECTS

Timor-Leste's capacity to be **economically independent** is challenged by Australia's claims on its resources and by the necessity of spending time and money pursuing Australia for justice.

Reduced access to resources heightens **Timor's poverty**:

- 40% live on less than \$2 a day
- Half the population is illiterate
- over 100,000 people died violently during the Occupation and the national infrastructure was severely damaged
- extreme challenges to education and health persist

Timor-Leste is No.128 on the Human Development Index out of 187. Australia is No. 2.

ALL RESOURCES UNDER DISCUSSION LIE ON TIMOR'S SIDE OF HALF-WAY IN THE TIMOR SEA

## THE TIMOR SEA TREATY (2002)

*Under the Timor Sea Treaty, Timor-Leste has title to 90 per cent of the petroleum produced in the Joint Petroleum Development Area. This has allowed development of resources to start, and enabled Timor-Leste to establish a Petroleum Fund now worth over \$16.6 billion. The Timor Sea Treaty is not being challenged. Timor receives 90% of the tax revenue and Australia gets the other 10%, as well as all the jobs and infrastructure. However, the area lies wholly on Timor's side of the median line. Norway, not Australia, has been of greatest assistance in advising and mentoring the process and the Petroleum Funds.*

## GREATER SUNRISE and CMATS

*79.9 per cent of the Greater Sunrise gas field lies in an area of exclusive Australian seabed jurisdiction.*

**This is a misleading statement as it does not indicate one of the key issues, that is, that the jurisdiction of the area in question is *disputed* by the two parties, Australia and Timor-Leste.**

*The 2006 treaty on Certain Maritime Boundaries in the Timor Sea (CMATS) provides for a 50/50 split of revenue between the Australian and Timor-Leste governments in the Greater Sunrise area.*

**That was on condition that Timor did not mention the words 'maritime boundaries' for 50 years. Timor is challenging this arrangement because Australia did not negotiate in good faith and allegedly spied on Timor's negotiators prior to the signing in 2006, by placing listening devices in the walls of the Timorese Prime Minister's office while it was being refurbished under an AusAid program. An Australian person previously in Intelligence and who was involved in the process has complained, and the case is before the International Court of Justice in The Hague.**

## NEGOTIATION OF THE TREATIES

*Australia and Timor-Leste agreed to put aside differences over a maritime boundary by negotiating the Timor Sea Treaties.*

**Regarding Greater Sunrise, Timor-Leste was *required* to agree to the hold on maritime boundary decisions in return for a better deal. It is misleading to conflate the various Treaties, as they deal with very different issues and have very different outcomes.**

*The treaties were agreed after complex negotiations, in which both sides made constructive compromises to achieve an equitable outcome. Australia and Timor-Leste entered into the treaties voluntarily.*

**This statement may be true of the 2002 Timor Sea Treaty, but it is entirely incorrect when applied to the 2006 CMATS Treaty concerning Greater Sunrise. To state that both sides "made constructive compromises" over CMATS is a nonsense, as Timor-Leste has taken Australia to The Hague over Australia's lack of good faith. Timor-Leste's freedom to negotiate was compromised by the dire need to get revenue in 2002, and by being spied on in the negotiations for the 2006 Treaty.**

*The arrangements are consistent with international law, including the UN Convention on the Law of the Sea (UNCLOS).*

**There are serious challenges to this statement. If the disputes were submitted to the maritime section of the International Court of Justice, if current UNCLOS standards were used, and if Australia agreed to abide by current international practice in good faith, median line principles would apply. It must be remembered that two months before Timorese independence in May 2002, Australia withdrew from UNCLOS and ITLOS, depriving Timor of the resources and support of the international arbitrators.**

## AUSTRALIAN AID

*Timor-Leste's long-term prosperity and stability are very important to Australia. Australia is Timor-Leste's biggest aid donor and its major security partner.*

**In that case, it is hard to explain why Australia has been so difficult over the Timor Sea resources. Between 1999 and 2013 Australia spent \$1 billion on aid to Timor-Leste, much of which has gone on salaries of Australians employed on projects in Timor-Leste. During that same time, Australia received over \$2 billion in tax revenue from the Laminaria-Corallina field, which is now almost depleted. Timor-Leste received no benefit at all. As the field lies totally within a disputed area, the revenue should have gone into trust until resolution.**

**The Greater Sunrise field will be worth more than \$40 billion over its lifetime. In 2013, the Gross Domestic Product of Timor was just under \$2 billion. In the same year, Australia's GDP was over \$1500 billion.**

**The Treaties in question deal with areas that lie wholly on Timor's side of half way between Australia and Timor-Leste. The median line, or half-way, is the internationally accepted norm by which to judge ownership.**

**The Timor Sea issue is a matter of justice, not charity. The question is, *who owns the resources*, and the only way to come to a conclusion is to set a fair and permanent maritime border between Australia and Timor-Leste.**