

TIMOR-LESTE AND ITS MARITIME BOUNDARIES

Timor-Leste seeks to delimit permanent maritime boundaries according to international law, including the 1982 United Nations Convention on the Law of the Sea (**UNCLOS**).

At present, Timor-Leste does not have any permanent maritime boundaries with either of its two neighbours: Indonesia and Australia.

Maritime boundaries are a matter of sovereignty for the people of Timor-Leste.



Map of what a maritime boundary would look like using equidistance / relevant circumstances approach under international law.



PROGRESS WITH INDONESIA

- In 2015, Timor-Leste commenced discussions with Indonesia on maritime boundaries. Indonesia and Timor-Leste have committed to negotiating a permanent maritime boundary according to international law.
- Timor-Leste respects the confidentiality of this ongoing negotiation process.



WITHDRAWALS AND REFUSALS FROM AUSTRALIA

- Timor-Leste has no direct means to delimit a maritime boundary with Australia because:
 - In March 2002, two months before Timor-Leste's restoration of independence, Australia withdrew from the compulsory dispute settlement procedures related to maritime boundaries under UNCLOS, which excludes the possibility of any court or tribunal decision on maritime boundaries, and
 - Australia also refuses to negotiate permanent maritime boundaries on a bilateral basis.

THE TEMPORARY ARRANGEMENTS WITH AUSTRALIA

- Australia and Timor-Leste have entered into three provisional revenue-sharing treaties regarding oil and gas resources in the Timor Sea. These treaties do not set permanent maritime boundaries and expressly state they are without prejudice to either countries' rights concerning the final delimitation of their maritime boundaries.
- The treaties give Australia far more rights than what it is entitled to under international law.

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- The **2002 Timor Sea Treaty** was signed on the very first day of Timor-Leste's restoration of independence, 20 May 2002, and largely continued the **1989 Timor Gap Treaty** which Australia negotiated with Indonesia during the occupation.
- Timor-Leste is currently disputing the validity of the **2006 CMATS Treaty** at the Permanent Court of Arbitration at The Hague after obtaining evidence of alleged Australian espionage during the negotiations which led to the 2006 treaty.

INTERNATIONAL LAW IS THE 'EQUIDISTANCE / RELEVANT CIRCUMSTANCES APPROACH'

- UNCLOS requires a maritime boundary delimitation to achieve "an equitable solution" and further, that States shall not "jeopardise or hamper the reaching of the final [maritime boundary] agreement."
- For States with overlapping claims (like Timor-Leste with its two neighbours), international courts and tribunals, notably the International Court of Justice, have refined and now entrenched the 'equidistance / relevant circumstances approach' to maritime boundary delimitation under UNCLOS and customary international law (see, for example, The Black Sea Case (2009)).
- The approach typically starts by drawing a provisional equidistance line between two countries. The second step is to adjust that line to take account of 'relevant circumstances', such as the presence of islands, the effect of concave or convex coasts and the disparity in coast lengths. The final step is to apply a non-disproportionality test.
- Drawing the provisional equidistance line is therefore just the first step in a three-step process.
- Under international law, the 'equidistance / relevant circumstances approach' would apply to all of Timor-Leste's maritime boundaries.