

E-mail Message

From:
To: [SMTP:Doyle, Peter], s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Sent: 12/08/2015 at 11:07 AM
Received: 12/08/2015 at 11:07 AM
Subject: RE: Lowy Interpreter on Timor Sea [REDACTED]

I can't recall us ever sending policy material, but we have sent press releases relating to the Arbitration and ICJ cases.

From: Doyle, Peter
 Sent: Wednesday, 12 August 2015 9:05 AM
 To: s22(1)(a)(ii)
 Cc:
 Subject: RE: Lowy Interpreter on Timor Sea [REDACTED]

Thanks s22(1)(a)(ii)

s22(1)(a)(ii) Could you please translate this into Tetun. Not sure how we will use it, but want the option.

All, Have we ever sent policy material to ETAN? And material they won't like, such as this?

Peter

From: s22(1)(a)(ii)
 Sent: Wednesday, 12 August 2015 8:51 AM
 To: Doyle, Peter; s22(1)(a)(ii)
 Cc: s22(1)(a)(ii)
 Subject: Lowy Interpreter on Timor Sea [REDACTED]

HYPERLINK "<http://www.lowyinterpreter.org/post/2015/08/12/Timor-Gap-A-response-to-Senator-Xenophon.aspx>" Timor Gap: A response to Senator Xenophon
 HYPERLINK "<http://www.lowyinterpreter.org/profile.aspx?id=Stephen%20Grenville>" Stephen Grenville
 HYPERLINK "<http://www.lowyinterpreter.org/author/Stephen%20Grenville.aspx>" Previous Posts
 12 August 2015 8:22AM
 Given the tragic history of East Timor, it is understandable that Senator Nick Xenophon should argue for an HYPERLINK "<http://www.lowyinterpreter.org/%20http://www.nickxenophon.com.au/media/nicks-must-reads/show/failure-to-deal-fairly-with-east-timor-opening-the-door-to-china-my-opinion-piece-in-smh-today/>" early and generous settlement of the Timor Gap border issues with East Timor. We are rich and they are poor. HYPERLINK "<http://dfat.gov.au/geo/timor-leste/Documents/australias-maritime-arrangements-with-timor-leste.pdf>" Current agreements do not draw the division between Australia and Timor equidistant between the two countries, as might seem equitable.
 But, as I argued in an earlier post, it's HYPERLINK "<http://www.lowyinterpreter.org/post/2014/11/25/Australia-East-Timor-and-the-Timor-Gap.aspx>" not so simple.
 << OLE Object: Picture (Device Independent Bitmap) >>
 First, this poor country has already HYPERLINK "<http://www.bancocentral.tl/pf/main.asp>" accumulated a fund of almost \$US17 billion from oil revenues from the existing petroleum agreements between our two countries.

They can't effectively spend this money as fast as it is coming in. They receive 90% of the revenues from the Joint Petroleum Development Area (JPDA). If development of Greater Sunrise were to go ahead (with prospective returns often estimated at \$40 billion), Timor would receive half the revenue under the existing agreement.

Is Timor entitled to more? If it is about geography, then you have to go to the charts. Drawing the southern edge of the border (running roughly east-west) so that it is equidistant between the two countries would not put Sunrise in Timor's territory, as 80% of Sunrise lies to the east to the JPDA. To get Sunrise into Timor territory, you would have to shift the eastern edge of the JPDA.

This edge of the JPDA is usually described as a 'simplified equidistant line between East Timor and Indonesia', and so there would seem to be no reason for shifting it. In the fraught history, however, there have been claims that it should be redrawn. The most extreme of these came from the HYPERLINK

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The map which accompanies Senator Xenophon's article (shown above) also shifts this eastern border. It may be based on HYPERLINK

"<http://www.dollarsandsense.org/archives/2006/0706chaudhry.html>" this 2006 article, which seems to be a biased source with arbitrary specification of boundaries - judge the article for yourself!

More recently, an American lawyer (sympathetic to the Timor position) has HYPERLINK "[http://viewfrom12.com/2014/01/25/a-timeline-of-events-leading-up-to-timor-leste-icj-claim-against-australia/?](http://viewfrom12.com/2014/01/25/a-timeline-of-events-leading-up-to-timor-leste-icj-claim-against-australia/?relatedposts_hit=1&relatedposts_origin=4265&relatedposts_position=1)

relatedposts_hit=1&relatedposts_origin=4265&relatedposts_position=1" produced some beautiful Google Earth maps HYPERLINK "<http://viewfrom12.com/2014/03/17/>" analysing possible borders, one of which puts 70% of Sunrise in Timor territory. But it depends on just where you start your eastern border. The critical point where this hypothetical border meets the Sunrise field is actually closer to Indonesia than to Timor, while the existing JPDA edge is about equidistant, as you would expect it to be.

Here is the dilemma: this border depends on East Timorese and Indonesian territory, not Australian. If you want to draw this border with a view to getting Sunrise into Timor's territory, you will surely open up the issue of Indonesia's border. It is certainly true that Sunrise is closer to Timor than it is to Australia, but it is closer to Indonesia than it is to Timor. Indonesia could well claim that the 1972 border was drawn under duress, at a time when Australia was strong and Indonesia was weak, and that it should be redrawn to reflect current UNCLOS norms. If that were to happen, it seems unlikely Indonesia would be ready to give 50% of Sunrise revenue to Timor.

<< OLE Object: Picture (Device Independent Bitmap) >>

Then there is the vexed issue of the continental shelf. A glance at any chart showing sea-depth (such as the HYPERLINK "<http://dfat.gov.au/geo/timor-leste/Documents/australias-maritime-arrangements-with-timor-leste.pdf>" DFAT map immediately above) reveals why the 1972 borders were drawn where they were: Australia has a well-defined continental shelf delimited in this region by a deep trench (the 'Timor Trough').

The continental shelf is still the basis of many international maritime borders, but where countries are less than 400 nautical miles apart, UNCLOS arbitrators have had such trouble with arguments about just where a continental shelf ends that they have taken the easy way out, routinely ignoring the continental shelf and settling on an equidistant border. This is presumably why Australia is reluctant to put this issue to international arbitration. And of course we are not the only country that sees UNCLOS arbitration as unsatisfactory. The US, for example, has not even ratified the agreement.

The continental shelf is not a trivial issue for Australia. HYPERLINK

"http://www.ga.gov.au/webtemp/image_cache/GA11214.pdf" This chart shows our sea-borders are largely based on the geography of our well-defined continental shelf, with special provisions for various off-shore 'rises' such as in the Antarctic. This approach has been blessed by the relevant UNCLOS Commission on the Limits of the Continental Shelf. Note, however, the yellow section relating to the JPDA. Drawing the border equidistant with Timor would be giving away an area which we have long regarded as part of our continental shelf.

<http://www.lowyinterpreter.org/>

s22(1)(a)(ii)

Second Secretary (Political)

Australian Embassy, Dili, Timor-Leste

Telephone: +670 332 2111 s22(1)(a)(i) Mobile: s22(1)(a)(ii)

HYPERLINK "<http://www.timorleste.embassy.gov.au/>" www.timorleste.embassy.gov.au

HYPERLINK "<http://www.facebook.com/AustralianEmbassyTimorLeste>"

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E-mail Message

From: [SMTP:Doyle, Peter] s22(1)(a)(ii)
To: s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Sent: 13/08/2015 at 10:06 AM
Received: 13/08/2015 at 10:06 AM
Subject: RE: Responses to "Ami Hakarak Rona Husi Imi" FB post [REDACTED]

Peter

s22(1)(a)(ii)

The team are at work on the Tetun translations. s22(1)(a)(ii) is on leave, so s22(1)(a)(ii) is assisting with the Lowy article. We'll get them to you as soon as we can.

s22(1)(a)(ii)

From: Doyle, Peter
Sent: Thursday, 13 August 2015 8:42 AM
To: s22(1)(a)(ii)
Subject: FW: Responses to "Ami Hakarak Rona Husi Imi" FB post [REDACTED]

s22(1)(a)(ii) Please get me today s22(1)(a)(ii) the translation of the Grenville piece from yesterday. I would like these to be published some today and some tomorrow. Peter

s22(1)(a)(ii)

E-mail Message

From:
To: s22(1)(a)(ii)
Cc:
Sent: 13/08/2015 at 6:16 PM
Received: 13/08/2015 at 6:16 PM
Subject: RE: Lowy Interpreter on Timor Sea [REDACTED]
[REDACTED]

Attachments: Timor Gap.docx

Hi s22(1)(a)(ii)
Please find attached article has been translated into Tetum.

s22(1)(a)(ii) Thanks for proof reading the translations

Regards,
s22(1)(a)(ii)

Executive Assistant to Ambassador
Australian Embassy, Dili, Timor-Leste
Telephone: +670 332 2111 s22(1)(a)(ii) | Mobile: s22(1)(a)(ii)
HYPERLINK "<http://www.timorleste.embassy.gov.au/>" www.timorleste.embassy.gov.au
HYPERLINK "<http://www.facebook.com/AustralianEmbassyTimorLeste>"
www.facebook.com/AustralianEmbassyTimorLeste

From: s22(1)(a)(ii)
Sent: Wednesday, 12 August 2015 10:17 AM
To: s22(1)(a)(ii)
Cc:
s22(1)(a)(ii)
Subject: FW: Lowy Interpreter on Timor Sea [REDACTED]
[REDACTED]

Dear s22(1)(a)(ii)

s22(1)(a)(ii)

HOM has asked that this translation is progressed this week. [REDACTED] goes on leave tomorrow and for all of next week and has other priorities to work on today.

Could you please translate the Stephen Grenville article into tetum? If you don't already have it, [REDACTED] can give you the tetum factsheet on oil and gas which might be helpful on the technical oil and gas terms.

s22(1)(a)(ii)

Thanks so much
s22(1)(a)(ii)

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Timor Gap: A response to Senator Xenophon

Timor Gap: Resposta ba Senadór Xenophon

- [Stephen Grenville](#)
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12 August 2015 8:22AM

Given the tragic history of East Timor, it is understandable that Senator Nick Xenophon should argue for an early and generous settlement of the Timor Gap border issues with East Timor. We are rich and they are poor. Current agreements do not draw the division between Australia and Timor equidistant between the two countries, as might seem equitable.

But, as I argued in an earlier post, it's not so simple.

Konforme Timor-Leste nia istória ne'ebé trajika, ita bele komprende katak Senador Nick Xenophon argumenta ho laran luak nune'e hodi buka solusan ne'ebe lais no jeneroza ba kestaun fronteira Timor Gap ho Timor-Leste. Ami riku no sira kiak. Akordu atuál la hatudu divizaun entre Australia ho Timor equidistante entre nasaun rua, no dala ruma bele hare hanesan.

Maibe, hanesan hau argumenta tiha iha ona iha hau nia komentariu anterior, ida ne'e laos simplis.

<< OLE Object: Picture (Device Independent Bitmap) >>

First, this poor country has already accumulated a fund of almost \$US17 billion from oil revenues from the existing petroleum agreements between our two countries. They can't effectively spend this money as fast as it is coming in. They receive 90% of the revenues from the Joint Petroleum Development Area (JPDA). If development of Greater Sunrise were to go ahead (with prospective returns often estimated at \$40 billion), Timor would receive half the revenue under the existing agreement.

Dahuluk, nasaun kiak ida ne'e akumulá tiha ona fundu besik bilaun \$17 husi reseitas mina nian husi akordu petroleu nian ne'ebe existi hela entre ita nia nasaun rua. Sira sei la konsege gasta osan ne'e lalais ho efetividade wainhira osan ne'e tama. Sira simu pursentu sia nulu (90%) reseitas husi

Área Conjunta de Desenvolvimento Petrolífero (JPDA). Karik desenvolvimento Greater Sunrise atu la'o ba oin (ho lukrus prospetivas ne'ebe kalkula mais ou menos biliaun hat nulu (\$40) maka Timor sei hetan reseitas metade tuir akordu ne'e.

Is Timor entitled to more? If it is about geography, then you have to go to the charts. Drawing the southern edge of the border (running roughly east-west) so that it is equidistant between the two countries would not put Sunrise in Timor's territory, as 80% of Sunrise lies to the east to the JPDA. To get Sunrise into Timor territory, you would have to shift the eastern edge of the JPDA.

Timor iha tan direitu ka lae? Karik ida ne'e kona ba jeografia, entaun ita tenke ba iha mapa. Dezenha linha sul fronteira nian (lao kuaze leste – oeste nian), atu nune'e hetan hanesan entre nasaun rua kuaze labela koloka sunrise iha teritoriu Timor nian, tamba pursentu ualu nulu (80%) husi sunrise tama iha area leste JPDA nian. Atu tau sunrise ba iha area Timor, ita tenke muda linha leste JPDA nian.

This edge of the JPDA is usually described as a 'simplified equidistant line between East Timor and Indonesia', and so there would seem to be no reason for shifting it. In the fraught history, however, there have been claims that it should be redrawn. The most extreme of these came from the Lowe opinion, provided in 2002 by lawyers retained by one of the firms which had been given exploration rights for this area by the Portuguese before they abandoned Timor in 1975. This legal opinion was an ambit opening bid, never taken seriously.

Linha ne'e area JPDA nian simplemente deskreve tiha ona 'linha equidistante simplifikadu' entre Timor Leste no Indonezia, ho nune'e laiha razaun atu muda linha ne'e. Iha istória difisil Timor nian, iha reklamasaun balun katak linha ne'e tenke dezenho fali. Esktrimu liu husi ida ne'e mai husi 'Opiniaun Lowe' nian ne'ebe prepara husi advogadu sira iha tinan 2002 retidu iha empreza ida ne'ebe hetan direitu explorasaun husi ema portugues sira molok sira abandona Timor iha 1975 iha area ne'e. Opiniaun legál ida ne'e hanesan soe lia deit no nunka atu konsidera sériu.

Read More

The map which accompanies Senator Xenophon's article (shown above) also shifts this eastern border. It may be based on this 2006 article, which

seems to be a biased source with arbitrary specification of boundaries – judge the article for yourself!

Le'e tan

Mapa ne'ebe akompanha ho artigu Senadór Xenophon nian (hanesan iha leten) mos muda fronteira leste nian. Dala ruma ida ne'e bazeia ba artigu 2006 nian, ne'ebe sai hanesan baze tendensioza ida ho espesifikasaun arbitráriu ba fronteira - julga artigu ne'e ba ita boot rasik!

More recently, an American lawyer (sympathetic to the Timor position) has produced some beautiful Google Earth maps analysing possible borders, one of which puts 70% of Sunrise in Timor territory. But it depends on just where you start your eastern border. The critical point where this hypothetical border meets the Sunrise field is actually closer to Indonesia than to Timor, while the existing JPDA edge is about equidistant, as you would expect it to be.

Foin dadaun liu ba, Advogadu Amerikanu ida (simpatizante ba posisaun Timor nian) produs tiha ona mapa *Google Earth* balun ne'ebe kapaz tebes no analiza iha possibilidade fronteira, ida ne'ebe tau pursentu hitu nulu (70%) husi Sunrise nian ba teritoriu Timor. Maibe ida ne'e depende ba wainhira ita hahu ita nia fronteira oriental. Pontu kritiku maka fronteira hipotetika ne'e hetan kampu Sunrise nian besik liu ho Indonesia duke Timor, enkuantu JPDA atuál nia equidistante kuaze tuir ita boot sira nia ekspektativa atu sai hanesan ne'e duni.

Here is the dilemma: this border depends on East Timorese and Indonesian territory, not Australian. If you want to draw this border with a view to getting Sunrise into Timor's territory, you will surely open up the issue of Indonesia's border. It is certainly true that Sunrise is closer to Timor than it is to Australia, but it is closer to Indonesia than it is to Timor. Indonesia could well claim that the 1972 border was drawn under duress, at a time when Australia was strong and Indonesia was weak, and that it should be redrawn to reflect current UNCLOS norms. If that were to happen, it seems unlikely Indonesia would be ready to give 50% of Sunrise revenue to Timor.

Dilema mak hanesan: fronteira ne'e depende ba teritoriu Timor ho Indonezia nian, laos Australia nian. Karik ita boot hakarak dada fronteira ho hanoin hakarak lori Sunrise ba teritoriu Timor nian, ita boot sei loke fali problema fronteira Indonesia. Los duni katak Sunrise besik liu ba

Timor duke Australia, maibe besik liu ho Indonezia duke Timor. Indonezia mos sei reklama katak dezenha fronteira iha tinan 1972 elabora tuir obrigasaun, iha altura ne'eba Australia forte no Indonezia fraku, tamba ida ne'e tenke dezenha fila fali tuir regulamentu UNCLOS nian. Se akontese duni maka Indonezia sei la prontu atu fo pursentu lima nulu (50%) reseitas husi Sunrise ba Timor.

<< OLE Object: Picture (Device Independent Bitmap) >>

Then there is the vexed issue of the continental shelf. A glance at any chart showing sea-depth (such as the DFAT map immediately above) reveals why the 1972 borders were drawn where they were: Australia has a well-defined continental shelf delimited in this region by a deep trench (the 'Timor Trough').

Depois, iha mos kestaun kontraversa ba plataforma kontinental. Hare ba grafika saida deit ne'ebe mak hatudu tasi okos nian (hanesan mapa DFAT nian iha leten) hatudu tamba saida fronteira tinan 1972 nian dada hanesan buat ne'ebe sira; Australia iha plataforma kontinental ida ne'ebe defini lolos rejiaun ne'e delimiti ho klean (the 'Timor Trough').

The continental shelf is still the basis of many international maritime borders, but where countries are less than 400 nautical miles apart, UNCLOS arbitrators have had such trouble with arguments about just where a continental shelf ends that they have taken the easy way out, routinely ignoring the continental shelf and settling on an equidistant border. This is presumably why Australia is reluctant to put this issue to international arbitration. And of course we are not the only country that sees UNCLOS arbitration as unsatisfactory. The US, for example, has not even ratified the agreement.

Plataforma kontinental ne'e sei baze fronteira maritima internacional barak, maibe nasaun sira maka iha menus husi milas nautikas atus hat (400) tasi entre nasaun sira, arbitradór UNCLOS nian hetan dezafius boot ho argumentus kona ba oinsa plataforma kontinental ne'e termina, ho nune'e sira uza ona dalan ne'ebe fasil, ho rotunidade ignora plataforma kontinental no deside fronteira ne'ebe equidistante. Ida ne'e presumivelmente tamba saida Australia relutante hodi koloka kestaun ne'e iha arbitrajen internacional. No los duni katak ami laos deit hanesan nasaun uniku ida ne'ebe bele hare arbitrajen UNCLOS nian ne'ebe insatisfatoria. Hanesan ejemplu, Estados Unidos nunca hakarak atu ratifika akordu ne'e.

The continental shelf is not a trivial issue for Australia. This chart shows our sea-borders are largely based on the geography of our well-defined continental shelf, with special provisions for various off-shore 'rises' such as in the Antarctic. This approach has been blessed by the relevant UNCLOS Commission on the Limits of the Continental Shelf. Note, however, the yellow section relating to the JPDA. Drawing the border equidistant with Timor would be giving away an area which we have long regarded as part of our continental shelf.

Plataforma kontinental laos deit asuntu triviál ba Australia. Mapa ne'e hatudu ami nia fronteiras maritimas bazeia jeralmente iha jeografia ami nia plataforma kontinental ne'ebe defini ho diak, ho kondisaun espesiál ba elevasaun sira hanesan Antartika. Abordajen ne'e hetan bensaun tiha ona husi Komisaun UNCLOS kona ba Limitasoens Plataforma Kontinental nian. Nota mos seksaun kinur kona ba JPDA. Dada fronteira equidistante ho Timor hanesan fo area ne'ebe ami konsidera tempu naruk liu ba hanesan parte husi ami nia plataforma kontinental.

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Cc: s22(1)(a)(ii)
Sent: 13/08/2015 at 10:14 AM
Received: 13/08/2015 at 10:14 AM
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Ok Tweet is sent

We're working on FB

s22(1)(a)(ii)

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Sent: Thursday, 13 August 2015 8:50 AM
To: s22(1)(a)(ii)
Cc:
Subject: FW: Timor Gap: A response to Senator Xenophon [REDACTED]

s22(1)(a)(ii)

ETAN also tweeted this. Please retweet this morning with

Interesting and thought-provoking analysis of Timor Sea issues from a leading NGO

We should also link to it on FB with translation today please.

s22(1)(a)(i) please show me draft chapeau language in English and Tetun. Asap please, as I have a lot of commitments today, so don't want us to run out of time.

Peter

From: HYPERLINK "mailto:east-timor-request@lists.riseup.net"east-timor-request@lists.riseup.net HYPERLINK "mailto:[mailto:east-timor-request@lists.riseup.net]"[mailto:east-timor-request@lists.riseup.net] On Behalf Of ETAN
Sent: Thursday, 13 August 2015 1:05 AM
To: HYPERLINK "mailto:east-timor@lists.riseup.net"east-timor@lists.riseup.net
Subject: Timor Gap: A response to Senator Xenophon

Folks are urged to respond in the comments HYPERLINK

"<http://www.lowyinterpreter.org/post/2015/08/12/Timor-Gap-A-response-to-Senator-Xenophon.aspx>"<http://www.lowyinterpreter.org/post/2015/08/12/Timor-Gap-A-response-to-Senator-Xenophon.aspx>

Timor Gap: A response to Senator Xenophon

12 August 2015 8:22AM

Given the tragic history of East Timor, it is understandable that Senator Nick Xenophon should argue for an [HYPERLINK](#)

"<http://www.lowyinterpreter.org/post/2015/08/12/>

20<http://www.nickxenophon.com.au/media/nicks-must-reads/show/failure-to-deal-fairly-with-east-timor-opening-the-door-to-china-my-opinion-piece-in-smh-today/>"early and generous settlement of the Timor Gap border issues with East Timor. We are rich and they are poor. [HYPERLINK](#) "<http://dfat.gov.au/geo/timor-leste/Documents/australias-maritime-arrangements-with-timor-leste.pdf>"Current agreements do not draw the division between Australia and Timor equidistant between the two countries, as might seem equitable.

But, as I argued in an earlier post, it's [HYPERLINK](#)

"<http://www.lowyinterpreter.org/post/2014/11/25/Australia-East-Timor-and-the-Timor-Gap.aspx>"not so simple.

[HYPERLINK](#) "<http://www.lowyinterpreter.org/image.axd?picture=201508grenville-timor2.jpg>"[]

First, this poor country has already [HYPERLINK](#)

"<http://www.bancocentral.tl/pf/main.asp>"accumulated a fund of almost \$US17 billion from oil revenues from the existing petroleum agreements between our two countries. They can't effectively spend this money as fast as it is coming in. They receive 90% of the revenues from the Joint Petroleum Development Area (JPDA). If development of Greater Sunrise were to go ahead (with prospective returns often estimated at \$40 billion), Timor would receive half the revenue under the existing agreement.

Is Timor entitled to more? If it is about geography, then you have to go to the charts. Drawing the southern edge of the border (running roughly east-west) so that it is equidistant between the two countries would not put Sunrise in Timor's territory, as 80% of Sunrise lies to the east to the JPDA. To get Sunrise into Timor territory, you would have to shift the eastern edge of the JPDA.

This edge of the JPDA is usually described as a 'simplified equidistant line between East Timor and Indonesia', and so there would seem to be no reason for shifting it. In the fraught history, however, there have been claims that it should be redrawn. The most extreme of these came from the [HYPERLINK](#)

"<http://web.archive.org/web/20090819140300/http://www.petrotimor.com/lglop.html>"Lowe opinion, provided in 2002 by lawyers retained by one of the firms which had been given exploration rights for this area by the Portuguese before they abandoned Timor in 1975. This legal opinion was an ambit opening bid, never taken seriously.

The map which accompanies Senator Xenophon's article (shown above) also shifts this eastern border. It may be based on [HYPERLINK](#)

"<http://www.dollarsandsense.org/archives/2006/0706chaudhry.html>"this 2006 article, which seems to be a biased source with arbitrary specification of boundaries - judge the article for yourself!

More recently, an American lawyer (sympathetic to the Timor position) has [HYPERLINK](#) "<http://viewfrom112.com/2014/01/25/a-timeline-of-events-leading-up-to-timor-lestes-icj-claim-against-australia/>

relatedposts_hit=1&relatedposts_origin=4265&relatedposts_position=1"produced some beautiful Google Earth maps [HYPERLINK](#) "<http://viewfrom112.com/2014/03/17/>"analysing

possible borders, one of which puts 70% of Sunrise in Timor territory. But it depends on just where you start your eastern border. The critical point where this hypothetical border meets the Sunrise field is actually closer to Indonesia than to Timor, while the existing JPDA edge is about equidistant, as you would expect it to be.

Here is the dilemma: this border depends on East Timorese and Indonesian territory, not Australian. If you want to draw this border with a view to getting Sunrise into Timor's territory, you will surely open up the issue of Indonesia's border. It is certainly true that Sunrise is closer to Timor than it is to Australia, but it is closer to Indonesia than it is to Timor. Indonesia could well claim that the 1972 border was drawn under duress, at a time when Australia was strong and Indonesia was weak, and that it should be redrawn to reflect current UNCLOS norms. If that were to happen, it seems unlikely Indonesia would be ready to give 50% of Sunrise revenue to Timor.

HYPERLINK "<http://www.lowyinterpreter.org/image.axd?picture=201508grenville-timor3.PNG>"[]

Then there is the vexed issue of the continental shelf. A glance at any chart showing sea-depth (such as the HYPERLINK "<http://dfat.gov.au/geo/timor-leste/Documents/australias-maritime-arrangements-with-timor-leste.pdf>" DFAT map immediately above) reveals why the 1972 borders were drawn where they were: Australia has a well-defined continental shelf delimited in this region by a deep trench (the 'Timor Trough').

The continental shelf is still the basis of many international maritime borders, but where countries are less than 400 nautical miles apart, UNCLOS arbitrators have had such trouble with arguments about just where a continental shelf ends that they have taken the easy way out, routinely ignoring the continental shelf and settling on an equidistant border. This is presumably why Australia is reluctant to put this issue to international arbitration. And of course we are not the only country that sees UNCLOS arbitration as unsatisfactory. The US, for example, has not even ratified the agreement.

The continental shelf is not a trivial issue for Australia. HYPERLINK "http://www.ga.gov.au/webtemp/image_cache/GA11214.pdf" This map (reproduced below) shows our sea-borders are largely based on the geography of our well-defined continental shelf, with special provisions for various off-shore 'rises' such as in the Antarctic. This approach has been blessed by the relevant UNCLOS Commission on the Limits of the Continental Shelf. Note, however, the yellow section relating to the JPDA. Drawing the border equidistant with Timor would be giving away an area which we have long regarded as part of our continental shelf.

HYPERLINK "<http://www.lowyinterpreter.org/image.axd?picture=201508grenville-timor4.PNG>"[]

What would be the result of accepting Senator Xenophon's argument? Replacing the southern edge of the JPDA with an equidistant border would make little difference to Timor's petroleum revenue, as they already get 90% of JPDA revenue. But it would give away a chunk of our continental shelf and might set precedents. Shifting the eastern boundary of the JPDA with the objective of giving Timor all of the potential Sunrise revenue (rather than the 50% in the existing agreement) would open up the border negotiations with Indonesia, with a good chance that Sunrise would end up in Indonesian territory, and Timor would get nothing.

Thus, Australia's core negotiating position seems sensible and easily defensible: we are ready to give Timor the greater part of the petroleum revenues from the disputed area (which would give Timor very substantial revenue for decades to come), but we are not ready to give away the continental shelf or open up the 1972 border agreement with Indonesia.

Unfortunately these negotiations have been seriously tainted by the HYPERLINK "https://en.wikipedia.org/wiki/Australia%E2%80%93East_Timor_spying_scandal" ham-fisted actions of our intelligence operators, to our enormous disadvantage and shame. As former Foreign Minister Downer HYPERLINK

"<https://www.thesaturdaypaper.com.au/world/2014/03/08/the-hague-rules-timor-leste-material-seized-asio-raids/1394197200>" said: 'you didn't have to spy on the East Timorese to find out what their position was'. Senator Xenophon might usefully turn his prodigious energies to providing some proper oversight of the Inspector Clouseaus in our intelligence service.

Ed. note: This article was originally published without the last section (beginning 'The continental shelf is not a trivial issue for Australia...'). We apologise for the error.

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