

The Sydney Morning Herald

Jose Ramos Horta: Australia needs to negotiate not litigate with neighbours

Jose Ramos Horta

Published: April 24, 2016 - 9:56PM

The maritime border dispute between Timor-Leste (East Timor) and Australia dates back at least to the 1960s.

Former Foreign Minister Alexander Downer called it unfinished business. He got that right.

Australia claims that Timor-Leste is trying to change the borders, but there are none to change. Australia, speaking for both countries, says that the current arrangements are working. Timor-Leste, speaking for itself, says the current arrangements are not working.

Given our geography, we must secure a settlement.

Australia has stymied every attempt on our part to negotiate maritime borders, refusing until now, even with the launch of our compulsory conciliation under the auspice of the United Nations. Australia could avoid dragging this out with costs to both sides, by agreeing to negotiate now.

Australia says it prefers to negotiate not litigate and prides itself on its ability to reach bilateral agreements with its neighbours; settling maritime borders with New Zealand, Solomon Islands, New Caledonia, Papua New Guinea and Indonesia. This begs the question - why not with Timor-Leste?

Australia said let us get temporary arrangements settled first before borders. We naively, some would say, believed that borders would come. In good faith we believed that Australia would support a serious consideration of a gas pipeline to our shores, having secured one to Darwin. Does Australia simply want to exhaust contested resources (think Nauru and phosphates exploitation) until there are none? Australia fully exploited the fields of Laminaria-Corallina, (twice as close to Timor-Leste than Australia) that would be in our territory if we had maritime borders.

Despite this conflicted history, East Timor enjoys friendly relationships with its two giant neighbours, Australia and Indonesia. Both countries have played central roles in assisting us in our hard work of peace and state building and national development.

With Indonesia we have almost completely resolved our common land borders and are in the preparatory stages of our maritime border negotiations.

In 1972 Australia and Indonesia agreed on their joint maritime seabed boundary based on Australia's unilateral interpretation of the "Continental Shelf" principle. Its legal and geographical veracity was doubtful then and beyond doubt now.

The "Medium Line" principle is the international legal norm, where opposing coastlines are 400 nautical miles or less apart. This allows exploitation of the exclusive economic zone (EEZ) that extends 200 nautical miles from the coastlines. The current arrangements deny us our EEZ rights.

The 1958 Convention on the Continental Shelf included the median line provision, as does the United Nations Convention on the Law of the Sea (UNCLOS). A convention that Singapore's eminent diplomat and president of the seminal third law of the sea conference, H.E. Tommy Koh calls "The Constitution for the Oceans".

The 1972 agreement was followed by the Timor Gap Treaty 1989 that created a zone of cooperation between Australia and Indonesia. Since our independence, Australia has tried to push down our throats the same arrangement it unfairly managed to sell to Indonesia.

Timor-Leste chief negotiator at that time, then Prime Minister Dr Mari Alkatiri resisted Australia's demand for

a maritime boundary based on its now discredited "Continental Shelf" claim.

Some facts later emerged that compelled our government to seek redress. Australia's unfair acts of espionage through blatant bugging of Timor-Leste government offices during one of our negotiation periods.

Timor-Leste cannot appeal to the judicial umpires as on the eve of our restoration of independence in 2002, Australia withdrew itself from their jurisdiction for the express purpose of marking maritime borders. Allowable yes, but also regrettable.

Other than this disagreement - and this is not a small matter - our two countries continue to cooperate in almost every field with Australia still our largest development aid partner; our bi-lateral defence and police cooperation has been exemplary. Hundreds of Timorese students are studying in Australian colleges and universities on full Australian or East Timor government scholarships. The Friendship Groups continue to grow and many high school students visit our small country. The Veterans to Veterans relationship strengthens each year, with the RSL playing a leading role. Xanana Gusmão is in Australia now leading the Timor-Leste Veterans in Anzac events.

The Australian people we have known for decades are sympathetic to the underdog and have shown genuine solidarity towards the people of Timor-Leste; they instinctively reject the elitist conservative political leaders' hardline approach on the maritime border issue.

Australia should embrace Timor-Leste, negotiate and agree on a permanent maritime boundary delimitation based on the accepted median line principle; reactivate the stalled development of the Timor Sea oil and gas projects; further support Timor-Leste education and health needs; open Australia to young Timorese workers. In Britain there are an estimated 15,000 young Timorese working; close to 2,000 others have been working in Korea under a very successful program.

Australia can do more, can do better.

Jose Ramos-Horta is the former President of Timor-Leste.

This story was found at: <http://www.smh.com.au/comment/jose-ramos-horta-australia-needs-to-negotiate-not-litigate-with-neighbours-20160424-godols.html>