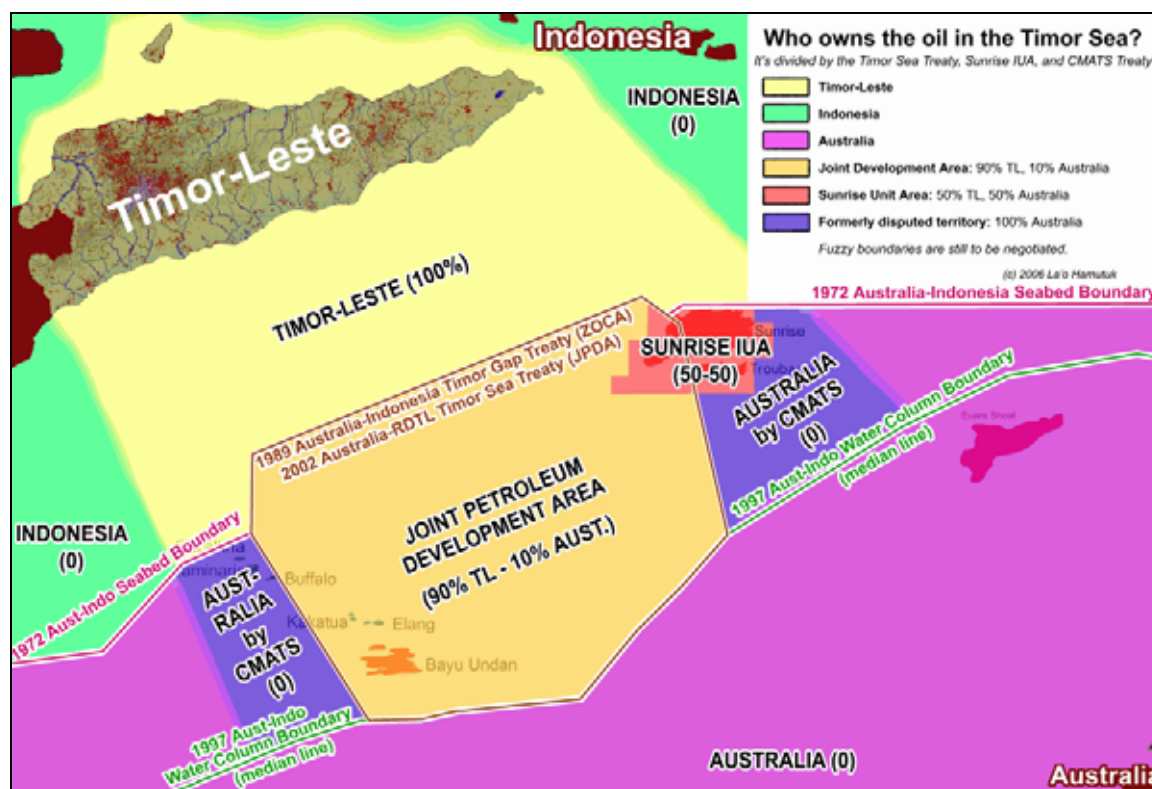




## Timor Sea Maritime Boundary: Still not settled!

*A briefing paper from La'o Hamutuk, August 2009.*



The Australian Government, working with international oil companies, has illegally occupied the Timor Sea since before 1999. Since the 2002 Timor Sea Treaty, Timor-Leste has given 10% of upstream revenues and all downstream revenues from the Joint Petroleum Development Area (JPDA) to Australia.

However, the Australian government continues to expand its ambition to exploit our resources in the Timor Sea, by unilaterally extracting oil and gas from the Buffalo and Laminaria-Corallina oil fields. Just before we restored our independence in 2002, Australia withdrew from legal processes for resolving maritime boundary disputes through the United Nations Convention on the Law of the Sea (UNCLOS) and the International Court of Justice (ICJ) so that Timor-Leste could not use the rule of law to obtain our boundary rights.

Australia's actions set the context for both Governments to enter into negotiations over the Timor Sea. Although Timor-Leste has a sovereign right to a maritime boundary, Australia prefers to negotiate only about sharing oil and gas revenues. This went against the demands of the people of Timor-Leste, and has prevented the completion of our long struggle for independence.

After years of negotiations, both Governments signed the Timor Sea Treaty (2002), International Unitization Agreement (IUA, 2003) and Certain Maritime Arrangements in the Timor Sea Treaty (CMATS, 2006). Many people in Timor-Leste know the CMATS Treaty as the "Greater Sunrise Agreement". In addition to an equal sharing of upstream revenues from the Greater Sunrise oil and gas field, the CMATS Treaty allows Australia to

exploit resources in territory which should belong to Timor-Leste under international law, and prevents Timor-Leste from securing its maritime territory rights for next 50 years or more.

Based on current international legal principles, Timor-Leste has more rights to resources in the Timor Sea than CMATS Treaty recognizes. But the Australian Government defies international law and continues to take those resources. Australia's withdrawal from the International Court of Justice (ICJ) in 2002 shows that Australia knows that its position is weak under international legal principles. This position, which is economically beneficial to Australia, is based on politics and faulty legal reasoning.

ConocoPhillips began developing the Bayu-Undan oil and gas field, one of the largest fields in the JPDA, in the late 1990s, while it was still stolen territory. Since 2006, natural gas has been sent by pipeline to Darwin, giving Australia most of the jobs and all the downstream revenues. Bayu-Undan production hit its peak in 2008, and the field will be exhausted by 2024.

Greater Sunrise is probably a little larger than Bayu-Undan, and is the largest field in the area. According to the Timor Sea Treaty, 20.1% of Greater Sunrise lies inside the JPDA and 79.9% is outside. The Sunrise field was

discovered in 1974, and Indonesia and Australia signed a Production Sharing Contract with the Australian company Woodside in 1995. Woodside continued as field operator after independence in 2002, but suspended work in 2004 and resumed in 2007, after Australia and Timor-Leste agreed on the ownership and revenue-sharing for the field. Upstream (extraction) revenues will be shared 50/50 between the two countries, but downstream revenue division depends on where the Liquefied Natural Gas (LNG) plant will be built.

The CMATS Treaty doesn't address the essential issue, which is to define the international maritime boundary between two sovereign nations. The Agreement is intended to enable development of the Greater Sunrise field, but it prevents Timor-Leste from raising the maritime boundary question for 50 years, thereby legalizing and extending Australia's illegal occupation of part of the Timor Sea.

This contradicts to our long struggle for independence, and does not protect Timor-Leste's sovereign rights or provide sufficient economic benefits to Timor-Leste. However, it is up to the Government of Timor-Leste to decide whether to live with the treaties it has signed or to persuade Australia to reopen negotiations to achieve our sovereign right to a maritime boundary according to the international legal principles.

