

# Briefing on the CMATS Treaty

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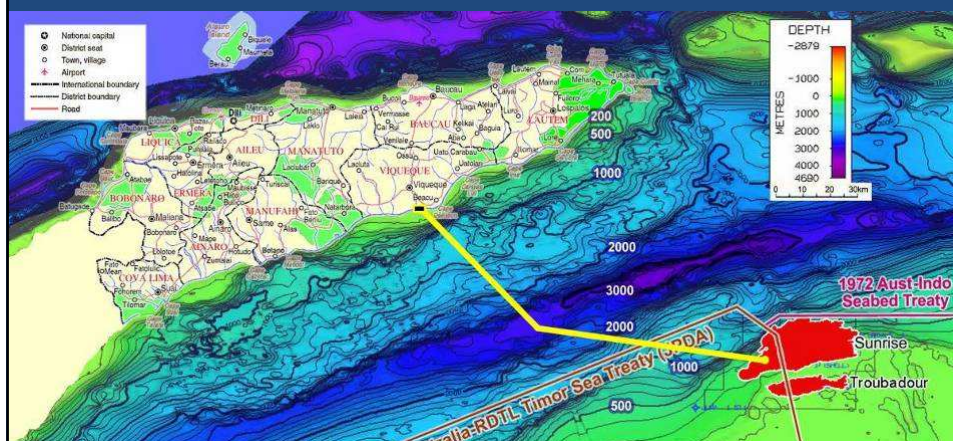
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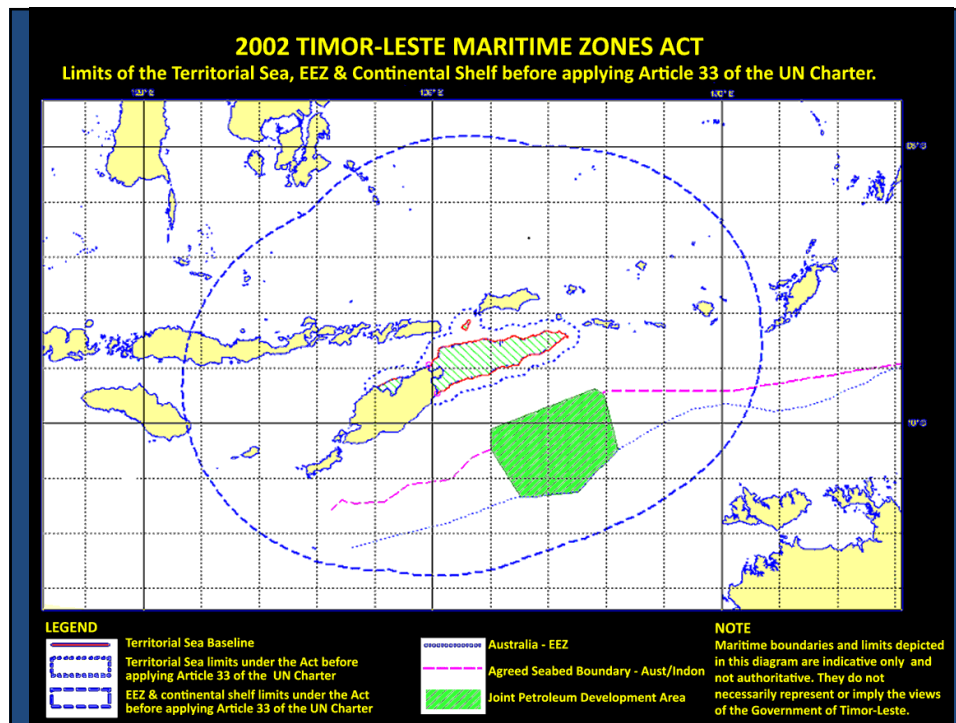


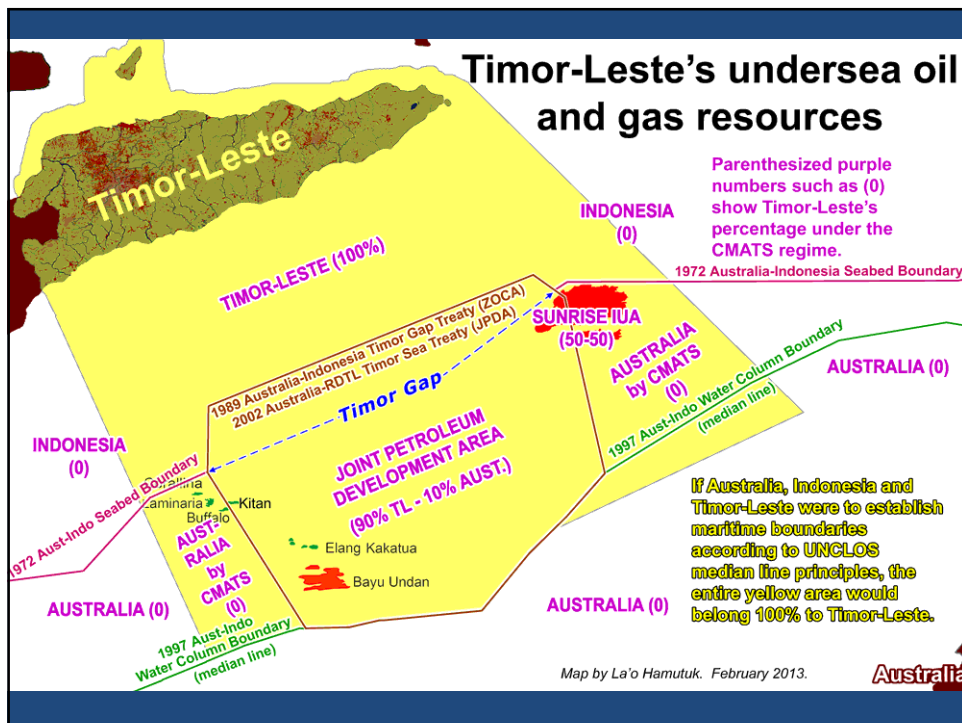
## Where is Greater Sunrise going?

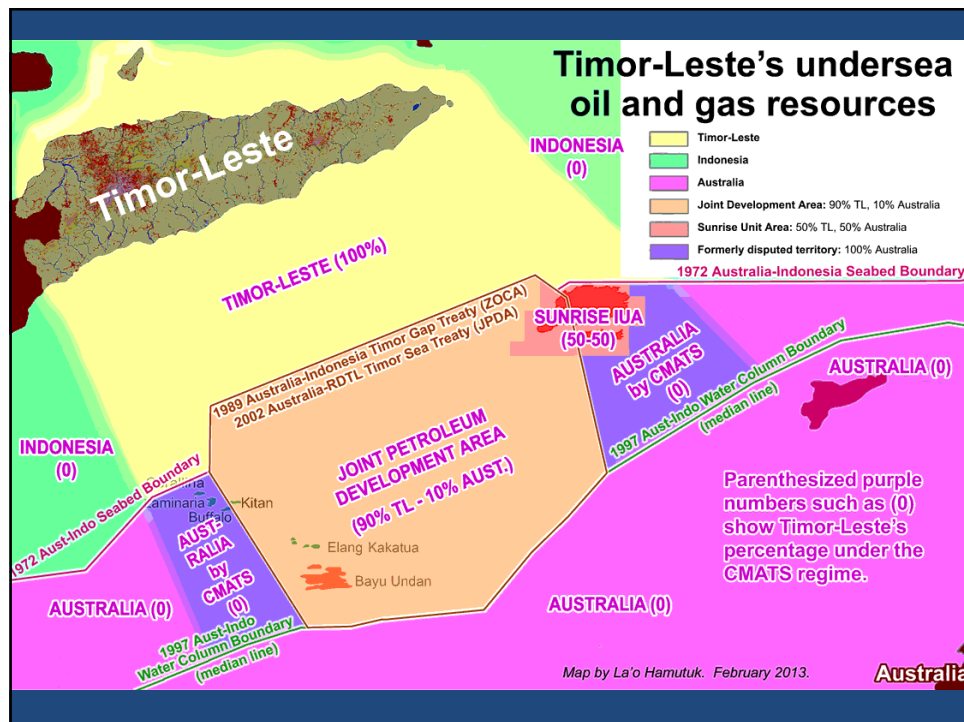


## Basic concepts

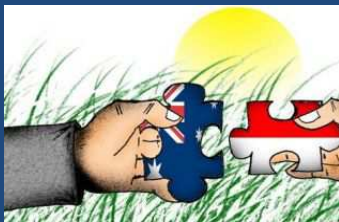
- Treaty, Contract, Agreement
- Exclusive Economic Zone (EEZ)
- International law
- Median Line, continental shelf
- International Conventions: UNCLOS, Vienna
- Field Development Plan
- Regulators – National Petroleum Authority (ANP) and Australia







## History



The history of the Timor Sea begins in 1970

- 1972 Australia and Indonesia decide their seabed boundary.
- 1974 Woodside discovers Sunrise.
- 1975 Indonesia invades TL, Australia supports Indonesia.
- 1991 Indonesia and Australia ratify the Timor Gap Treaty (or ZOC).
- 1994-1997 Companies discover Bayu-Undan, Elang-Kakatua, Laminaria-Corallina and Buffalo.

## History, continued

- 1999 Timor-Leste free from Indonesia
- 2002 Timor-Leste restores its independence
- 2002 TL and Australia sign Timor Sea Treaty (90:10)
- 2003 Australia finally ratifies the Timor Sea Treaty, after TL signs the IUA (Sunrise International Unitization Agreement)
- This allows Bayu-Undan development to proceed.
- 2006 TL and Australia sign CMATS Treaty
- 2007 TL and Australia ratify CMATS, and also ratify IUA
- 2008 Eni discovers Kitan, the only field since 1997
- 2010 Woodside decides to prefer Floating LNG

## CMATS

### *Certain Maritime Arrangements in the Timor Sea*



- Signed in Sydney 12 January 2006.
- TL ratified on 20 February 2007.
- Australia ratified on 22 February 2007, without approval from Australia's Parliament.



**Article 4: Moratorium**

1. Neither Australia nor Timor-Leste shall assert, pursue or further by any means in relation to the other Party its claims to sovereign rights and jurisdiction and maritime boundaries for the period of this Treaty.
2. Paragraph 1 of this Article does not prevent a Party from continuing activities (including the regulation and authorisation of existing and new activities) in areas in which its domestic legislation on 19 May 2002 authorised the granting of permission for conducting activities in relation to petroleum or other resources of the seabed and subsoil.
4. Notwithstanding any other bilateral or multilateral agreement binding on the Parties, or any declaration made by either Party pursuant to any such agreement, **neither Party shall commence or pursue any proceedings against the other Party before any court, tribunal or other dispute settlement mechanism that would raise or result in, either directly or indirectly, issues or findings of relevance to maritime boundaries or delimitation in the Timor Sea.**
5. **Any court, tribunal or other dispute settlement body** hearing proceedings involving the Parties shall **not consider, make comment on, nor make findings** that would raise or result in, either directly or indirectly, issues or findings of **relevance to maritime boundaries or delimitation in the Timor Sea**. Any such comment or finding shall be of and effect, and shall not be relied upon, or cited, by the Parties at any time.
6. Neither Party shall raise or pursue in any international organisation matters that are, directly or indirectly, relevant to maritime boundaries or delimitation in the Timor Sea.
7. **The Parties shall not be under an obligation to negotiate permanent maritime boundaries for the period of this Treaty.**

**Article 5: Division of Revenues from the Unit Area**

1. **The Parties shall share equally revenue** derived directly from the production of that petroleum lying within the Unit Area in so far as the revenue relates to the upstream exploitation of that petroleum.
9. Australia shall make a [monthly] payment to Timor-Leste equivalent to half the Australian revenue component and the Timor-Leste revenue component, less the Timor-Leste revenue.

## visions (1)

- Doesn't decide (Art. 2) and blocks discussions about maritime boundaries for fifty years (Art. 4).
- Extends Timor Sea Treaty from 2033 to 2057 or longer (Art. 3) .
- Enables exploitation of fields outside the JPDA (Sunrise, Laminaria-Corallina) (Art. 4.2).
- Shares "upstream" oil revenues from Greater Sunrise 50/50 (Art. 5).

## CMATS Provisions (2)

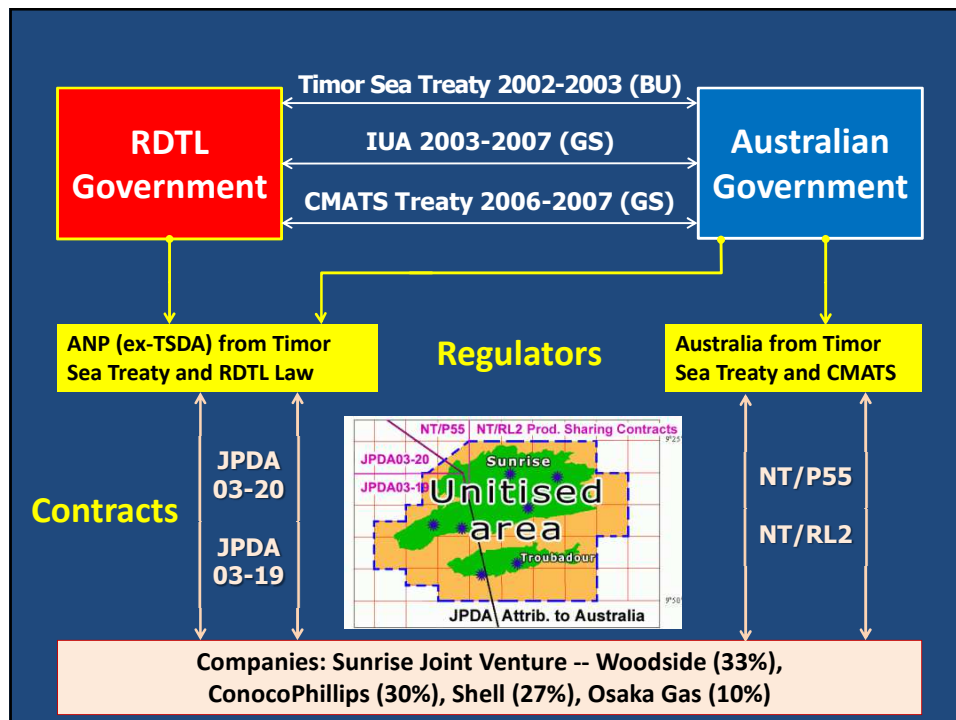
**Article 11: Dispute Settlement**

Any disputes about the interpretation or application of this Treaty shall be settled by **consultation or negotiation**.

**Article 12: Period of this Treaty**

1. Subject to paragraphs 2, 3 and 4 of this Article, this Treaty shall remain in force until the date **50 years after its entry into force**, or until the date **five years after the exploitation of the Unit Area ceases**, whichever occurs earlier.
2. If:
  - (a) a development plan for the Unit Area has not been approved in accordance with paragraph 1 of Article 12 of the Sunrise IUA within six years after the date of entry into force of this Treaty; or
  - (b) production of petroleum from the Unit Area has not commenced within ten years after the date of entry into force of this Treaty;**either Party may notify the other Party in writing that it wishes to terminate this Treaty**, in which case the Treaty shall cease to be in force **three calendar months after such notice is given**.
3. Should **petroleum production take place** in the Unit Area subsequent to the termination of this Treaty pursuant to paragraph 2 of this Article, all the terms of this Treaty **shall come back into force** and operate from the date of commencement of production.
4. The following **provisions of this Treaty shall survive termination** of this Treaty, and the Parties shall continue to be bound by them after termination:
  - (a) Article 2;
  - (b) the second sentence of paragraph 5 of Article 4;
  - (c) paragraph 3 of this Article; and
  - (d) this paragraph.
5. The period of this Treaty referred to in paragraph 1 of this Article **may be extended** by agreement in writing between the Parties.

- Any disputes will be resolved by negotiation (Art. 11).
- Either country can give notice to terminate this Treaty after 23 Feb. 2013 if no development plan has been approved, or if there is no production by 2017 (Art. 12.2).
- If Sunrise begins production in the future, CMATS will come back into force (Art. 12.3), including the 50-50 split.



## Options to exploit gas from Sunrise

Woodside and its partners prefer floating, in the middle of the sea, to maximize their profits.



Timor-Leste's people and Government want the pipeline to come to Timor-Leste.

(Australia prefers a pipeline to Darwin, but they already lost.)

## LNG plant in Darwin, Australia



### Who decides how Sunrise Gas will be processed?

Woodside and their Joint Venture partners ConocoPhillips, Shell and Osaka Gas announced their preferred development concept on 29 April 2010, deciding that floating LNG is more commercially profitable than a pipeline to Darwin. They had ruled out the Timor-Leste option in mid-2008.

The partners expect to propose a detailed Field Development Plan to the regulatory authorities in the next few weeks.

Woodside believes that the Sunrise Unitization Agreement requires the ANP and Australia to approve any Development Plan which:

- ✓ Is commercially viable
- ✓ Has a competent contractor
- ✓ Is to "the best commercial advantage consistent with good oilfield practice"
- ✓ Is likely to be done on schedule
- ✓ Has contracts with customers who will purchase the LNG

Timor-Leste's Sunrise Task Force supports Government advocacy for the technically feasible option of a pipeline to Timor-Leste.

Northern Territory government wants the pipeline to go to Darwin. Australia says it is neutral, but some have doubts.

**Each government evaluates the Joint Venture's proposed Field Development Plan.**

The "Sunrise Commission" (Francisco da Costa Monteiro for Timor-Leste, John Hartwell and Hugh Borrowman from Australia) facilitates the discussion. The regulators and the companies may propose and negotiate agreement on changes or additions, although these are unlikely to change where the gas will be liquefied.

The National Petroleum Authority (ANP) Joint Commission decides for the 20% inside the Joint Petroleum Development Area. It has two members from Timor-Leste (Francisco da Costa Monteiro and Antonio José Loyola de Sousa) and one from Australia (John Hartwell).

- Either country can appeal the decision to the Ministerial Council, consisting of Alfredo Pires (Timor-Leste) and Martin Ferguson (Australia).
- If the Council cannot agree, the decision goes to an arbitration tribunal.

The Australian government decides for the 80% outside the JPDA.

Since the Sunrise field is unitized, both parts must be developed together.

**The companies' "Final investment Decision" and construction of the Greater Sunrise project will begin after both Australia and the ANP approve the Development Plan.**

If a Development Plan has not been approved by February 2013, or if Sunrise LNG production hasn't started by February 2017, either Australia or Timor-Leste can cancel the CMATS Treaty, which would stop Sunrise development until a new treaty is negotiated.

Diagram by La'o Hamutuk based on the Timor Sea Treaty, Sunrise IUA, CMATS Treaty and information from Timor-Leste officials and Woodside.

29 April 2010



## CMATS advantages for TL



- Increase TL's share of Greater Sunrise extraction revenues from 18.1% to 50%.
- Give security to investors that the Greater Sunrise regime is stable so the project can proceed.

## CMATS disadvantages for TL



- Blocks chance for Timor-Leste to achieve its boundary rights until the oil and gas fields are dry.
- Allows Australia to keep stealing oil and gas wealth from occupied seabed territory like Laminaria-Corallina.



## But

**Terminating CMATS will not end or affect the four Greater Sunrise contracts with Woodside, Shell, ConocoPhillips and Osaka Gas which were signed in 2003.**

## Can TL pursue legal avenues?

The Government of Australia further declares, under paragraph 1(a) of article 298 of the United Nations Convention on the Law of the Sea done at Montego Bay on the tenth day of December one thousand nine hundred and eighty-two, that **it does not accept** any of the procedures provided for in section 2 of Part XV (including the procedures referred to in paragraphs (a) and (b) of this declaration) with respect to disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations as well as those involving historic bays or titles.

### Summary of the purpose of the proposed treaty action and why it is in the national interest

8. The purpose of the treaty action is to place some limitations on Australia's acceptance of the compulsory jurisdiction of the International Court of Justice (ICJ). The changes are in line with the Government's view that that countries like Australia that have a broad and long term acceptance of the jurisdiction of the International Court of Justice are not exposed to the possibility of litigation by countries that only accept the compulsory jurisdiction of the Court for a short time or for a specific purpose. It is also the Government's view that maritime boundary disputes are best resolved **through negotiation and not litigation.**

*Australia's declaration in March 2002*

## What are the obstacles to future negotiations?



- Australia has long demonstrated its desire to expand its access to oil and gas fields in the Timor Sea.
- Australia infringes on the maritime territory of their other neighbors through bilateral negotiations.
- Australia's culture, society and politics are greedy, and they don't want to lose billions of dollars in oil revenues.

## What makes TL strong?



- UNCLOS 1982
- Timor-Leste's people and society, and international solidarity
- \$12 billion in our Petroleum Fund (compared with zero in 2002-2005)
- Unfortunately:
  - Australia already withdraw from compulsory processes to resolve maritime boundary disputes under UNCLOS and ICJ.
  - National and international movements on the Timor Sea are dormant or dead.
  - We are spending a lot from our PF.



## What is best for TL to do?



- Demand a maritime boundary based on international legal principles.
- Encourage national and international movements for Timor Sea justice.
- Invest in non-oil economic sectors.
- Control state expenditures to avoid emptying the Petroleum Fund.
- Petroleum revenues: receive, use, save and invest.

## For more information

Visit [www.laohamutuk.org](http://www.laohamutuk.org) or  
<http://laohamutuk.blogspot.com/>

Thank you.