



Australian Government
Department of Foreign Affairs and Trade

AUSTRALIA–EAST TIMOR MARITIME BOUNDARIES

Finding an equitable solution

Australia is committed to negotiating permanent maritime boundaries with East Timor. These negotiations involve significant issues of sovereignty for Australia.

The Australian Government's view is that maritime boundaries are best settled by negotiation, not arbitration. Australia has concluded all its other maritime boundaries by negotiation.

No country has done more than Australia to assist the people of East Timor to realise their aspirations for independence and to help bring peace, stability and prosperity to the new nation.

Nevertheless, it is a clear principle of international law that socio-economic factors are not relevant for the purpose of determining the location of permanent maritime boundaries. It is not appropriate to link East Timor's economic and social development with requests for Australia to sign away long-standing sovereign rights in respect of its continental shelf.

WHAT IS THE CURRENT STATUS OF MARITIME BOUNDARY TALKS WITH EAST TIMOR?

The first round of negotiations was held in Dili from 19 to 22 April 2004. Talks were broad-ranging and substantive. The second round of talks will take place in Australia later in 2004.

In light of the complexity of the negotiations, the Australian Government considers twice-yearly talks to be appropriate. This is nothing out of the ordinary, and is fully consistent with our experience in other maritime boundary negotiations.

WHICH RULES OF INTERNATIONAL LAW ARE RELEVANT TO THE NEGOTIATIONS?

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) and customary international law prescribe that overlapping claims are to be resolved on the basis of international law in order to achieve an 'equitable solution'. Such an 'equitable solution' will vary according to the particular circumstances of the case at hand, and no two delimitations are ever the same. International law does not, as is often claimed, require that all overlapping maritime claims are to be resolved by a half-way 'median' or 'equidistant' line.

WHAT IS THE SIGNIFICANCE OF THE TIMOR TROUGH?

International law supports Australia's claim to the full extent of its continental shelf northward to the deepest part of the Timor Trough. The Timor Trough is a significant geological feature that descends in parts to more than 3000 metres, marking a clear physical discontinuity in the seabed between Australia and East Timor (see Map B). Its significance is reflected in

Australia's longstanding seabed arrangements with Indonesia. It is an important factor to be taken into account in the negotiation of a seabed boundary with East Timor.

WHAT ARE THE CURRENT ARRANGEMENTS FOR THE TIMOR SEA? CAN DEVELOPMENT PROCEED?

The *Timor Sea Treaty* is an interim arrangement that is without prejudice to the position of either country on permanent boundaries. The *Timor Sea Treaty* provisionally gives East Timor 90 per cent of petroleum production from within the Joint Petroleum Development Area (JPDA). This is very generous when compared with the 50:50 split that applied in exactly the same area under the former *Timor Gap Treaty* with Indonesia, especially given Australia's long-standing and valid claim to the entire natural prolongation of the Australian continent, beneath which all the relevant deposits lie. Development of the oil and gas resources, including the major Bayu-Undan field, is proceeding. Revenue has already started flowing to East Timor and is estimated at around US\$3 billion over the life of the Bayu-Undan project alone.

The *International Unitisation Agreement for Greater Sunrise* (IUA) signed by Australia and East Timor on 6 March 2003, provides the secure legal and fiscal environment required for the development of the Greater Sunrise gas reservoirs. Under the Timor Sea Treaty, which is in force for both Australia and East Timor, Greater Sunrise is apportioned on the basis that 20.1 per cent falls within the JPDA and the remaining 79.9 per cent falls in an area to the east of the JPDA over which Australia exercises exclusive seabed jurisdiction. This apportionment reflects the geographical location of the resources. The IUA unitises the reservoirs on the same basis. Legislation to implement the IUA passed through the Australian Parliament on 30 March 2004. Australia now looks to East Timor to do what is necessary on its part to ensure the IUA's entry into force.

WOULD A MEDIAN LINE BOUNDARY GIVE EAST TIMOR MOST OF THE RESOURCES IN THE TIMOR SEA?

Suggestions that an equidistant boundary would attribute to East Timor most of the Timor Sea's resources are simply wrong. Australia considers that areas to the east and west of the JPDA and south of the 1972 Australia-Indonesia seabed boundary are areas of exclusive Australian seabed jurisdiction.

The eastern and western lateral boundaries of the JPDA reflect 'simplified lines of equidistance' as between the territories of Indonesia and East Timor. This means that all points along those lateral boundaries are equidistant from the closest points on the coastlines of Indonesia and East Timor. Therefore, by definition, areas to the east and west of the JPDA are closer to Indonesia than

to East Timor. These areas were delimited through negotiations that led to the 1972 Australia-Indonesia Seabed Agreement. It is pursuant to the 1972 Seabed Agreement that Australia exercises jurisdiction over petroleum resources at the Laminaria-Corallina fields. Similarly, recent Australian actions such as grants of exploration licences have all been in areas of exclusive Australian seabed jurisdiction.

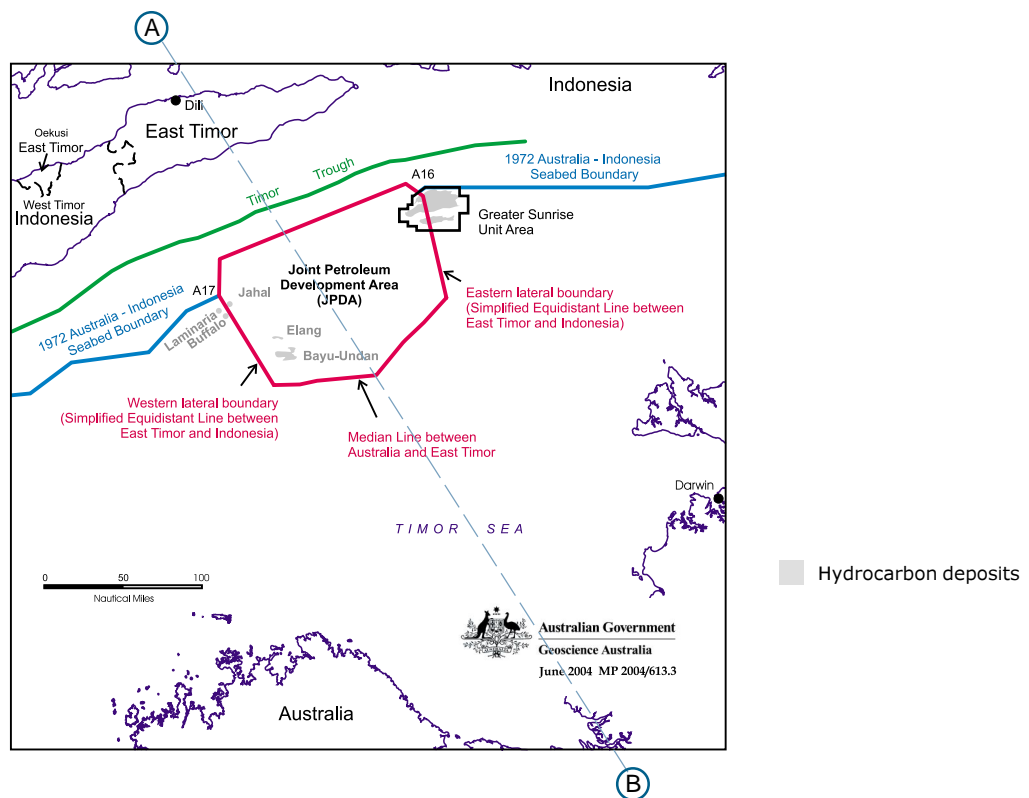
WHY WON'T AUSTRALIA AGREE TO HAVE BOUNDARIES SETTLED BY INTERNATIONAL ARBITRATION?

The UNCLOS recognises negotiation as the primary means of delimiting maritime boundaries. Australia has settled all its other maritime boundaries by negotiation, and believes that as maritime boundaries are permanent, the acceptability of the boundary to both countries is crucial. Australia and East Timor have just commenced negotiations, and history shows that arbitration does not necessarily lead to a quicker or more satisfactory outcome.

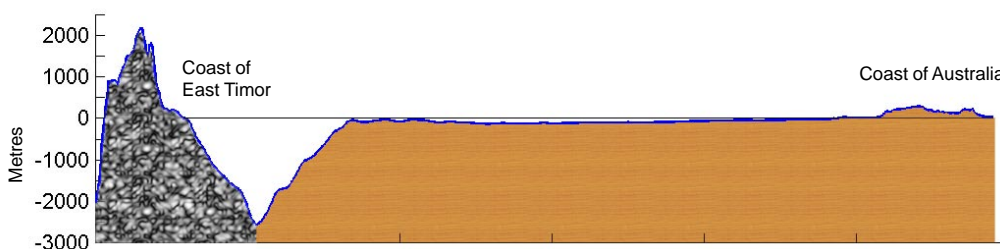
AUSTRALIA'S COMMITMENT TO EAST TIMOR

Australia's role in East Timor's transition to independence was crucial, including bringing together and leading the international coalition – INTERFET – that ended the violence and restored security in late 1999. Australia has been a lead contributor of civilian advisers and military and police personnel to successive United Nations missions in East Timor, and this continues in the current United Nations Mission of Support in East Timor. Since 1999 we have provided over \$400 million worth of overseas development assistance. Nevertheless, East Timor will remain one of Australia's largest development cooperation partners, and we will provide around \$40 million in development assistance each year for the next three years.

MAP Of Timor Sea Area



PROFILE Of Timor Sea seabed



CROSS SECTIONING LINE A-B ABOVE