

Australia holding back East Timor

TOM CLARKE *The Australian* February 28, 2013

IF you thought the debate over East Timor's oil and gas resources had been put to bed, think again. Because Australia has never agreed on permanent maritime boundaries with East Timor, the temporary resource-sharing agreement the Howard government jostled it into in 2006 may come crashing down.

The exploitation of oil and gas resources in the Timor Sea has been a thorn in the side of successive Australian governments since foreign minister Gareth Evans signed the infamous Timor Gap Treaty in 1989. It allowed Australia to pocket millions of dollars from Timor's oil and gas reserves in exchange for becoming one of the only countries in the world to legally recognise Indonesian sovereignty over East Timor.

Neither did the Howard government intend to take a more equitable approach than its predecessors. Two months before East Timor's independence, Australia pre-emptively withdrew its recognition of maritime boundary jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea.

Following a period of stonewalling, then hard-ball negotiating from the Australian government, a temporary resource-sharing agreement was reached in relation to the massive Greater Sunrise gas field. Just 100km from Timor, the field is estimated to be worth at least \$40 billion in government revenues and would most likely be owned entirely by East Timor had permanent maritime boundaries been in accordance with international law.

The Certain Maritime Arrangements in the Timor Sea treaty signed in 2006 resulted in an agreement to a 50-50 split of the upstream revenues to be generated by Greater Sunrise. This increase from the previous plan involving an 18-72 split in Australia's favour came with a condition. East Timor would shelve its claim for permanent maritime boundaries for the next 50 years or more.

Six years later, the Greater Sunrise field remains untouched. East Timor is eager to benefit from the downstream revenues and possible spin-off economic development that would be generated by processing the resources in Timor, while Woodside would prefer to liquefy the gas at a floating plant in international waters. A stalemate. CMATS included a provision that if processing of the field had not begun within six years either country could terminate the deal.

That time is upon us and this issue will haunt our governments until Australia negotiates in good faith with East Timor for permanent maritime boundaries in accordance with international law. This issue has never been about charity. It's about justice and what the sovereign nation of East Timor is legally entitled to.

Since the UN Convention on the Law of the Sea in 1982, international law has favoured median-line boundaries between countries less than 400 nautical miles apart. Put simply, a line should be drawn halfway between the two coastlines.

While there are 80 examples of the median line resolving such claims, there is only one exception - the 1972 Australian-Indonesian Treaty. Current understanding of international law and advances in drilling and mining technology have made geological and geomorphological factors, such as continental shelves, irrelevant in such cases.

In addition to peddling the continental shelf argument during his time as foreign minister, Alexander Downer also liked to highlight Australia's aid and military assistance to East Timor. While Australia played a very important role in helping to stabilise East Timor from 1999, over the same period the Australian government has taken more in contested oil and gas royalties than it has given to East Timor in combined military and humanitarian aid.

It was the inherent injustice in this, and the discomfort of watching a wealthy and powerful country like Australia trying to bully the poorest country in Asia into an inequitable and temporary deal, that motivated the Timor Sea Justice Campaign. The TSJC was made up of concerned Australians from all political persuasions, of various ages and professions, that called on our government to give East Timor a fair go.

The Gillard government, or a possible future Abbott government, would be wise to remember that support in Australia for our East Timorese neighbours runs deep. Should East Timor choose to withdraw from CMATS and seek a fairer deal based on international law, it may well find it still has many allies here in Australia.

The only thing standing between East Timor and what it is legally entitled to is the Australian government. Australia could and should put an end to decades of hard-nosed greed and offer to negotiate in good faith with East Timor.

Permanent maritime boundaries will provide more economic certainty for both countries and for the companies seeking to exploit the oil and gas resources. But, more than this, setting permanent boundaries in accordance with international law is the right thing to do.

It would also bring some closure to the Timorese people's long and determined struggle to become an independent and sovereign nation complete with maritime boundaries.

Tom Clarke was the co-ordinator of the Timor Sea Justice Campaign in 2005.

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