

Australia loses attempt to knock out East Timor's maritime boundary complaint

Daniel Flitton

Published: September 26, 2016 - 9:26PM

Australia has lost in its claim that an international commission has no jurisdiction to hear a complaint by East Timor in the bitter dispute over undersea oil and gas riches.

Prime Minister Malcolm Turnbull earlier this year [knocked back a call for fresh negotiations](#) on the maritime boundary in the Timor Sea, but the decision released on Monday from the Permanent Court of Arbitration at The Hague opens the way for talks between the two countries.

East Timor remains incensed by allegations that Australian spies bugged the cabinet office of its tiny neighbour during negotiations for a 2006 treaty to divide oil and gas revenue.

In a statement on Monday, the commission at The Hague ruled it had the jurisdiction to hold a "conciliation" under a never-before invoked article of the international law of the sea.

The decision was handed down on September 19, but kept under wraps [until this week](#).

East Timor wants a greater slice of revenues and now argues the resources fall within its territory, triggering the conciliation claim.

Independence hero Xanana Gusmao welcomed the decision, linking the dispute with East Timor's long struggle against Indonesian occupation.

"Just as we fought so hard and suffered so much for our independence, Timor-Leste will not rest until we have our sovereign rights over both land and sea," Mr Gusmao said in a statement.

But Australia [challenged the legal basis of the commission to hear the case](#) during at times tense closed-door proceedings last month, insisting East Timor should respect the existing treaty - which has delivered \$16 billion in revenue to the fledgling nation.

Foreign Minister Julie Bishop was also quick to [note the conciliation process invoked by East Timor is not binding](#). Australia has already withdrawn from the compulsory arbitration rules for drawing up maritime boundaries under international law.

The commission rejected Australia's argument that the existing treaty, which includes a 50-year moratorium on maritime boundary negotiations, meant there were no grounds for conciliation.

East Timor argued the exiting treaty - known as Certain Maritime Arrangements in the Timor Sea - was "null and void".

The dispute has become [a rare example of a foreign policy difference between the major parties](#) in Australia, with Labor pledging at the last election to return to the negotiating table with East Timor.

Labor's Penny Wong said in light of the ruling, the government should settle the dispute with East Timor "in fair and permanent terms".

Bec Strating from La Trobe University warned last week ahead of the conciliation was [unlikely to change Australia's approach](#), and East Timor was "running out of time" to fix a rapidly declining economy.

East Timor specialist Michael Leach from Swinburne University of Technology said conciliation would still be important politically, even though it will not be binding legally.

Professor Leach said the decision suggests Australia's obligation under international law to negotiate a maritime

boundary in good faith has survived the treaties with East Timor.

But Professor Leach said Australia could circumvent the legal process altogether by agreeing to border negotiations - "and settle this irritant in the relationship for good."

The conciliation was invoked in April, and is now expected to run for the next year, at least.

The Australian government said on Monday the present arrangements had been "hugely beneficial" for East Timor and the existing treaties had been negotiated in good faith.

Ms Bishop said government "will continue to engage in good faith as we move to the next phase of the conciliation process" in line with global rules and the commission would produce a report that is non-binding.

This story was found at: <http://www.theage.com.au/federal-politics/political-news/australia-loses-attempt-to-knock-out-east-timors-maritime-boundary-complaint-20160926-grooik.html>