

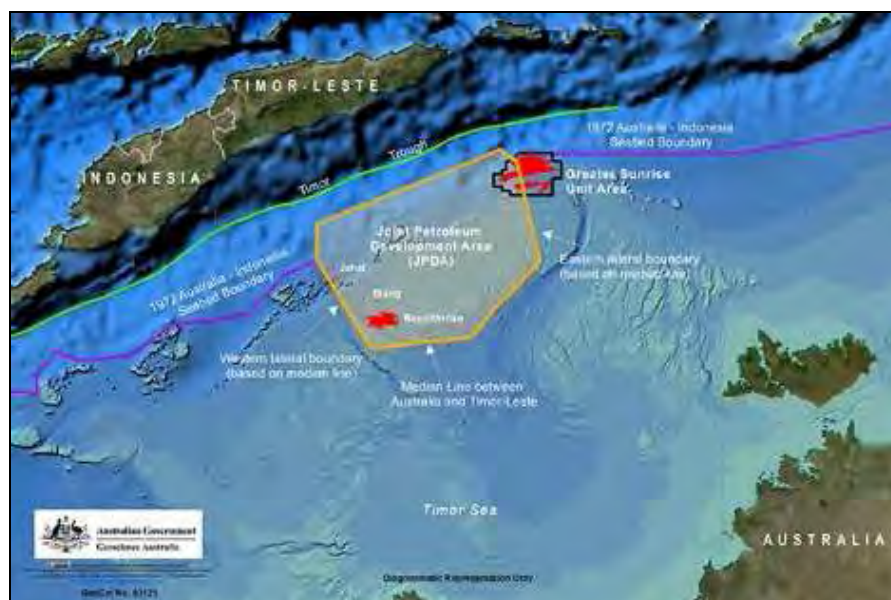
Britain and Norway's model solution for the Timor Sea

Paul Cleary | 29 August 2016

As Australia and East Timor met overnight at the Permanent Court of Arbitration in The Hague, the Britain-Norway settlement of the 1960s provides an instructive case study of how to resolve the dispute over oil and gas fields in the Timor Sea.

When Britain and Norway negotiated to divide up the oil-rich North Sea in the mid-60s, they reached an agreement in record time because Britain offered a deal based on the inherently fair median line.

Norway had feared its big neighbour would exploit a deep trench near its coastline and push the boundary beyond halfway. Instead, the Norwegian negotiators were stunned when Britain offered the median line as the starting point for negotiations, which had the effect of later handing the small country two of the biggest finds in the North Sea.



Like the North Sea, the Timor Sea has a deep trench that lies close to the weaker party, East Timor, and its most lucrative oil and gas fields sit close to existing boundaries. But unlike Britain, Australia began negotiations with Indonesia in the early 70s by declaring the median-line principle was irrelevant and the boundary should follow the trench. As the Australian negotiators put it, nature had already decided where the boundary should be drawn, and they succeeded.

At this time, East Timor was a Portuguese colony and Lisbon was pressing for a median-line settlement. Australia refused to negotiate with Portugal, and the Department of Foreign Affairs flexed its muscles by closing the Dili consulate. This is why the 1972 maritime boundary agreement between Australia and Indonesia left a 'gap' where the Portuguese territory was located.

By contrast, London set out the basis for a fair settlement in a February 1964 aide-memoire, which said: 'Her Majesty's Government propose that the dividing line be calculated on median-line principles laid down in Article 6 of the Continental Shelf Convention.'

Upon receiving the document, Norway's chief negotiator, Jens Evensen, urged the Oslo government to secure a prompt agreement, writing in the margin: 'We must strike immediately because of difficulties with the Norwegian trench.' In March 1965, the two countries settled on the boundary.

The British government offered the median line to avoid getting bogged down in lengthy negotiations, which has clearly been the case in the Timor Sea.

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The agreement secured by Australia in 1972 prompted advisers within Foreign Affairs to argue Australia could close the Timor Gap and secure a favourable boundary with Indonesia, in control of Timor. Such sentiments influenced Australia's thinking ahead of Indonesia's invasion in December 1975.

But Jakarta realised that it blundered in 1972 and it took a decade for Australia and Indonesia to agree in 1989 to a complex revenue-sharing arrangement in the Timor Gap.

After the independence ballot in 1999, East Timor began six years of negotiations before signing what it believed to be the final deal in 2006. But revelations of bugging by Australia have prompted more wrangling, which has now gone all the way to The Hague.

Had Australia taken the British approach, the dispute would have settled long ago, and all parties would be better off today.



Paul Cleary was an adviser to the East Timor prime minister during to 2003-05 negotiations. His new book is *Trillion Dollar Baby — How Norway Beat the Oil Giants and Won a Lasting Fortune*. This article originally appeared in *The Australian*.

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