

Timor Sea treaties show Australia's commitment to rules-based order

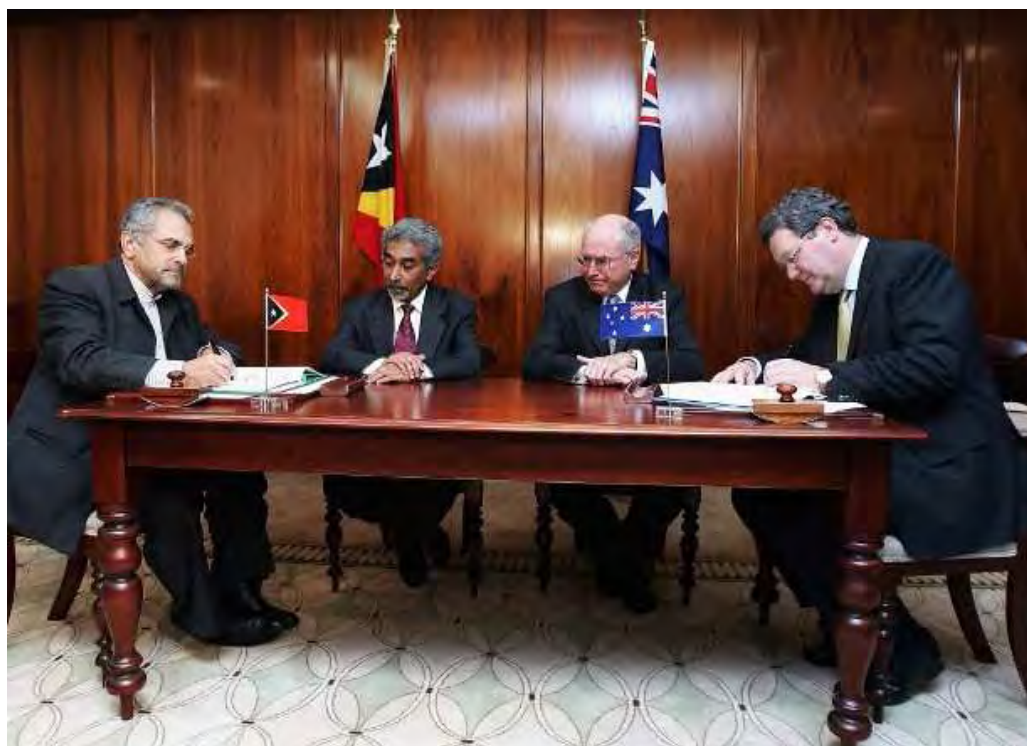
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Last week on The Interpreter, Malcolm Jorgensen said 'Australia's continued obstruction of East Timorese maritime claims is...both incoherent and self-defeating', and argued that Australia should make concessions to Timor Leste on the maritime boundary issue as a price for its commitment to a rules-based international order. He also believes Australia's position on Timor undermines our stance on the South China Sea dispute.



Australia and Timor Leste sign maritime treaty, January 2006, (Getty.)

Australia's treaties with Timor-Leste in fact form part of the Government's commitment to a rules-based international system. Australia and Timor-Leste previously sought to negotiate permanent maritime boundaries, but were unable to reach agreement. As neighbours and friends, we agreed to put aside our differences over permanent boundaries and instead entered into three treaties that prioritise development of the resources to benefit both countries. UNCLOS specifically encourages countries to enter into this type of provisional arrangement.

Australia's policy on the South China Sea is to encourage countries to resolve disputes peacefully and in accordance with international law. This is exactly what Australia has done by entering into the Timor Sea treaties. Indeed, this type of joint development approach is often put forward as a constructive way of overcoming disputes in the South China Sea.

The Australian Government continues to support the existing Timor Sea treaties. They are fair and offer the best way to unlock the economic benefits of resource development for both countries. Under the terms of the Timor Sea Treaty (TST), Timor-Leste receives 90% of the revenue from the Joint Petroleum Development Area (JPDA). Australia receives 10%. The Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS) provides Timor-Leste with 50% of the future revenue from Greater Sunrise, even though approximately 80% of Greater Sunrise is in an area of exclusive Australian seabed jurisdiction. As a direct result of the TST, Timor-Leste has accrued a Petroleum Fund now worth over \$16 billion. Reopening the Timor Sea treaties would undermine investment certainty and delay the flow of revenue to both countries.

As Jorgensen notes, Australia is entitled under international law to settle its boundaries through negotiations. Australia, like many other countries, has chosen to do so, and has concluded all of its permanent maritime boundaries in this way.

UNCLOS requires countries to delimit maritime boundaries by agreement 'in order to achieve an equitable solution'. This is not the same thing as equidistance or a median line. Further, the application of median line and equidistance principles would leave no more than 20.1% of Greater Sunrise in Timorese jurisdiction, resulting in substantially less revenue for Timor-Leste than provided for in the current treaties.