

Oil, spies and sea cucumbers: East Timor takes on Australia

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East Timor wants to draw a line, to finally put to rest a bitter dispute with Australia that has seen allegations of spying and bullying over who owns rich oil and gas deposits in the deep waters of the Timor Sea. Labor has split with the government, promising fresh negotiations with our tiny neighbour. Daniel Flitton explains what's at stake.



East Timor wants fresh negotiations to divide oil and gas fields with Australia - and the dispute isn't going away. *Photo: Supplied*

No frequent flyers (or just none anyone wants to acknowledge)? How frosty has the relationship become?

Not one senior Australian politician has visited East Timor since the Coalition won power in 2013, a dramatic illustration of just how tense the stand-off between the two countries has become. Every other close neighbour has had an Australian minister drop by their capital in the same period, most several times. It's the usual way high-level diplomacy is done.

But the Foreign Affairs department confirmed to Fairfax Media that since Labor's then minister for international development melissa Parke travelled in August 2013, the VIP lounge in Dili has been quiet, at least for Australian political leaders.



East Timor's then prime Minister Mari Alkatiri with John Howard and Alexander Downer in 2006 after signing a "Treaty on Certain Maritime Arrangements in the Timor Sea". *Photo: MickTsikas*

Of course, there has still been plenty of talk over the years since – just about matters governments typically prefer to keep quiet. Secret even.

East Timor has dragged Australia off to the international court after uncovering evidence of espionage during a Howard-era deal to divvy up the oil and gas fields in the Timor Sea. Australian spies, posing as aid workers, are alleged to have bugged the cabinet room of the East Timor government. Australia tried dispatching a special envoy to get relations back on track, but the impasse remains.

But where does it stand now, and why the angst?

East Timor's Prime Minister Rui Araujo has written directly to Malcolm Turnbull in recent weeks, appealing for fresh negotiations on a permanent maritime boundary. East Timor's ambassador Abel Guterres also hinted during a conference in Melbourne last week that the espionage case could be dropped if a boundary can finally be agreed.

The issue of where to draw the line is deeply intertwined with East Timor's long struggle against Indonesia's brutal 1975 takeover, and recriminations over Australia's subsequent willingness to deal with Indonesian occupiers.

After independence, East Timor and Australia did agree to a series of treaties that put aside the question of where to draw the line until 2057 and instead divided the so-called "Timor Gap" – the space south of East Timor in between Australia's agreed maritime boundary with Indonesia. Australia argued this allowed oil and gas fields to be quickly exploited for the economic benefit of the new nation, without going through years of tedious negotiations.

East Timor got 90 per cent of the "Joint Petroleum Development Area" and a 50:50 split of the more lucrative, but never developed, "Greater Sunrise" field, which Australia claims sits mostly within its territory. East Timor has since amassed a \$16 billion petroleum fund, with interest largely funding the national budget.

But East Timor now insists it got a raw deal, and not just because of the alleged eavesdropping.

"Australia did all it could to shove that treaty at East Timor," Guterres said, dispensing with usual diplomatic niceties. The new nation was ill-prepared to negotiate such complex arrangements, with claims it has missed out on at least \$5 billion, and wants the 50-year moratorium on drawing the maritime boundary lifted.

So why is Australia resisting?

Australia is often accused of simple greed. But the official response is that a formal delineation might not be as generous to East Timor as the existing arrangements. And there is another often overlooked complexity in the shape of the far longer maritime boundary with Indonesia.

"If Australia was to enter into a favourable maritime boundary arrangement with East Timor in the Timor Sea," explains Donald Rothwell, one of Australia's leading international law scholars, "that might prompt Indonesia to come back and say, well look, there are seabed boundaries that we negotiated in the 1970s, those sea boundaries do not currently reflect international law ... accordingly we'd like to renegotiate those boundaries."

The problem comes down to sea cucumbers. Australia has a seabed boundary with Indonesia that divides everything on and under the sea floor. Australia has another line with Indonesia that divides everything in the water column. Where these lines overlap, Indonesia gets all the fish, Australia any minerals and hydrocarbons under the sea floor.

But as Andi Arsana from GadjahMada University in Jakarta points out, a sea cucumber is a sedentary creature plonked on the bottom, and any Indonesian fisherman who happens to catch one in the overlapping zone is technically violating Australian sovereignty.

The confusing separate lines are the product of changes over time to the law of the sea. East Timor insists the boundary dispute should be settled by the modern arrangements, with a median line between the countries, which came into force in the 1980s (although Australia exempts itself from any international dispute resolution on maritime boundaries).

Indonesia has never formally ratified the old arrangements with Australia, although in practice they are respected. "Indonesia really has kept its options open in that regard," says Rothwell. East Timor might share only 2 per cent of Australia's maritime boundary, but Indonesia shares far more.

Meanwhile, Indonesia and East Timor have started talks to settle maritime boundaries, and that rapprochement hasn't gone unnoticed. Or that Chinese warships just paid their first visit to Dili.

So what has Labor pledged?

Enter Tanya Plibersek, shadow spokeswoman on foreign affairs, who this month promised a Labor government would hold "good faith" negotiations with East Timor and should this fail, submit Australia to international adjudication. "The maritime boundary dispute has poisoned relations with our newest neighbour. This must change, for their sake, and for ours..."



East Timor insists it got a raw deal from Australia to divvy up oil in the Timor Sea. *Photo: Rob Homer*



Graffiti on the Australian embassy wall in Dili shows brewing anger over the maritime dispute. Photo: Supplied

It's a rare break in the usual cosy consensus between the political parties on foreign policy. Some activists doubt Labor's sincerity, and the Coalition has questioned the role of former MP Janelle Saffin driving Labor's policy change at the party's national conference last year, given she also worked as a legal adviser to the East Timor government. Liberal senator David Fawcett also wants to know whether Labor sought an official briefing on "unintended consequences" of fresh negotiations.

What is clear for now is the dispute isn't going away, and almost 50 years would be a long time to wait for resolution.