



## What's behind Timor-Leste terminating its maritime treaty with Australia

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Timor-Leste and Australia will renegotiate a treaty from 2006. AAP/Mick Tsikas

The government of Timor-Leste has officially notified Australia of its wish to terminate the 2006 Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS). The treaty sets out the division of revenue from the Greater Sunrise oil and gas fields, an estimated A\$40 billion deposit in the Timor Sea.

The maritime border between Timor-Leste and Australia has been a source of contention over recent years. But the decision to terminate the treaty and begin negotiations anew could have serious ramifications for Timor-Leste's economic development, given its dependence on the Timor Sea resources.

### The CMATS treaty

The CMATS treaty was designed to enable the joint exploitation of the Greater Sunrise field. The treaty circumvented the competing border claims by placing a 50-year moratorium on negotiating maritime boundaries between Australia and Timor-Leste.

The Sunrise International Unitisation Agreement, finalised in March 2003, agreed that 20.1% of Greater Sunrise was located in the Joint Petroleum Development Area (JDPA) established under the 2002 Timor Sea Treaty, and 79.9% within Australia's jurisdiction.

### Scrapping the CMATS

Timor-Leste has long considered this treaty invalid. In recent years, the governments of Timor-Leste and Australia have been unable to agree on how the Greater Sunrise gas should be processed.

In 2013, Timor-Leste initiated proceedings against Australia at an arbitral court (in the Permanent Court of Arbitration at The Hague) under the Timor Sea Treaty to invalidate CMATS. It did so on the grounds that Australia's alleged spying on Timor-Leste's negotiators in 2004 contravened the Treaty of Vienna requirement that treaties be negotiated in "good faith".

Timor-Leste favours an export pipeline to its south coast to enable its ambitious petroleum industrialisation plans. In contrast, Australia supported the decision of the licensee consortium, headed by Woodside, that the export pipeline was not the best commercial option.

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When the CMATS treaty was negotiated, these disagreements were put aside in order to reach an agreement. However, this just delayed the seemingly irreconcilable dispute about developing the field.

## **Sovereignty**

Timor-Leste's government has developed a narrative that maritime boundaries are necessary for completing its sovereignty. This narrative has linked the independence movement to the sea disputes in order to bolster public support against Australia. Consequently, the moratorium on forming permanent boundaries had increasingly become a problem in relations between Australia and Timor-Leste.

In 2015, Timor-Leste's government initiated a United Nations Compulsory Conciliation under Annex V of the UN Convention on the Law of the Sea (UNCLOS) in a bid to pressure Australia into changing its policies on Greater Sunrise.

Timor-Leste's withdrawal from CMATS is not a surprise. In the opening statements of the conciliation process, Timor-Leste's representatives flagged this as a likely action.

The careful wording of the joint statement makes it clear that the Australian government "recognises" Timor-Leste's right to initiate the termination of the treaty. This does not suggest that Australia has substantially shifted its long-standing policies on the Timor Sea. However, the joint statement does indicate that the Australian government recognises that maintaining the CMATS treaty had become untenable.

## **Future negotiations**

Terminating CMATS reflects a continuation of Timor-Leste's high-stakes approach to Timor Sea diplomacy.

Negotiations on establishing a permanent maritime boundary will continue under the UN Compulsory Conciliation. This process is designed to help states resolve bilateral maritime disputes by providing recommendations from a panel of experts.

The Australian government has repeatedly emphasised the non-binding nature of these recommendations. While Australia has an obligation to negotiate in good faith, this does not mean it can be forced into agreeing to a maritime boundary. Negotiated boundaries still appear to be some way off.

Timor-Leste will be pushing for permanent maritime boundaries that will give Timor-Leste most, if not all, of Greater Sunrise in order to support its ambitious oil industrialisation plans.

Terminating the CMATS treaty ultimately means that the governments of Timor-Leste and Australia are back to square one in negotiations over Greater Sunrise.

## **The consequences**

There are a number of potential consequences for Timor-Leste.

First, the revenues that flowed from the Joint Petroleum Development Area under the Timor Sea Treaty have provided approximately 90% of Timor-Leste's state budget. The Bayu-Undan oil field is expected to be depleted by 2022 or 2023.

Without a source of revenue, Timor-Leste's economy would be at serious risk of collapse: the A\$16 billion petroleum fund could be depleted by 2025. The risk for Timor-Leste is that Australia will prolong boundary negotiations, putting more strain on its finances. Timor-Leste's vulnerability increases as the window for resolving the dispute before oil revenues run out narrows.

Second, the Exclusive Economic Zone and continental shelf claims of Timor-Leste and Australia overlap with those of Indonesia. While the spectre of Indonesia's future involvement in the dispute is largely ignored in the media, it would be naïve to believe that Indonesia would not become a third claimant if the opportunity arose.