

Australian government agrees to negotiate East Timor maritime border

By Patrick Kelly
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The Australian and East Timorese governments issued a joint statement on Monday declaring that they are entering negotiations through the Permanent Court of Arbitration in The Hague to settle a permanent maritime border.

The statement also announced the termination of the 2006 Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS), under which the border was to be left unresolved for 50 years while the Timor Sea's energy reserves were divided through a mechanism heavily weighted in favour of Australia. Canberra had previously resisted, tooth and nail, attempts by East Timor to nullify CMATS.

The announcement represents a significant tactical shift by Australian imperialism. Since 1975, when Indonesia invaded and subsequently annexed the former Portuguese colony of East Timor, successive Labor and Liberal governments in Australia have been satisfied to leave the Timor Sea maritime border undetermined. The same policy underwrote Canberra's predatory relationship with "independent" East Timor, following the Australian military deployment in 1999 under the bogus pretext of humanitarian intervention.

The unresolved maritime border has allowed Australia to exert geostrategic influence—and extract lucrative oil and gas resources—far beyond the median point between Australia and East Timor, where the border ought to be established under international law.

The full implications of the joint Australian-Timorese statement remain to be seen. Carefully worded throughout, the statement appears to allow Canberra ample opportunity to drag out negotiations indefinitely on a maritime border. It declared that during meetings in The Hague last October: "The governments of Timor-Leste and Australia agreed to an integrated package of measures intended to facilitate the conciliation process and create the conditions conducive to the achievement of an agreement on permanent maritime boundaries in the Timor Sea... The governments of Timor-Leste and Australia look forward to continuing to engage with the [Permanent Court of Arbitration's] Conciliation Commission and to the eventual conclusion of an agreement on maritime boundaries in the Timor Sea."

None of this signals a retreat from Australian imperialism's long record of provocations and lawlessness against East Timor.

Immediately prior to formal Timorese independence in 2002, Canberra withdrew from a key aspect of the United Nations Convention on the Law of the Sea (UNCLOS) in order to prevent any juridically determined border in the Timor Sea. This blatant contempt for international law has not prevented the current Australian government from hypocritically echoing US criticisms of China for failing to recognise a dubious Permanent Court of Arbitration (PCA) finding last year on territorial disputes in the South China Sea.

Having barred the PCA from ruling on the Timor Sea, the Australian government last year sought to block the court from allowing the East Timorese government to proceed with a compulsory arbitration case. This was to involve "compulsory conciliation," with the PCA considering the rival sea boundary claims and then issuing non-binding recommendations aimed at providing the basis of a negotiated settlement. In September, the court dismissed the Australian legal challenge to this process.

Talks on the process of negotiating a maritime border began the following month. One of the Australian government's aims in agreeing to Timorese demands for a permanent border is likely to prevent further

scrutiny of the now defunct CMATS treaty.

The Timorese government had mounted a separate legal challenge in The Hague to CMATS, based on the argument that the treaty was unlawful because of illegal Australian intelligence operations during the treaty's negotiations. In 2004, Australian intelligence operatives posed as humanitarian construction workers helping to build Timorese government offices. Listening devices hidden in the buildings were then used to eavesdrop on Timorese cabinet discussions.

Responding to the Timorese legal challenge, in December 2013, the Australian Security Intelligence Organisation (ASIO) raided the offices of East Timor's Australian-based lawyer, Bernard Collaery, also stealing sensitive Timorese government documents. Attorney-General George Brandis threatened Collaery with serious criminal charges for allegedly divulging official secrets. The government seized the passport of a former Australian intelligence operative turned whistleblower, in order to prevent him from testifying at The Hague. All of these provocations and dirty tricks are now being swept under the carpet.

The Timorese government has welcomed the termination of CMATS and the announcement of negotiations on a permanent maritime border. It is entering into the discussions amid a worsening economic and social crisis in East Timor.

The massive Greater Sunrise gas fields that were previously covered by the CMATS treaty remain untapped. Australia's Woodside Petroleum—which heads a consortium of Australian, American, and Japanese oil and gas giants that has the rights to exploit the reserves—has flatly refused Timorese government demands to extract the gas and pipe it to southern Timor for refining and export. The protracted standoff over whether Greater Sunrise gas ought to be processed in Australia, Timor or in a floating facility in the Timor Sea has coincided with a plunge in gas prices worldwide. The rise of fracking in the US and other countries, and the development of gas mega-projects off northwest Australia and in other regions has led to a glut in global supply that has raised questions about the viability of bringing Greater Sunrise online.

The Timorese state currently relies on the far smaller Bayu Undan oil and gas field for about 90 percent of all its revenue. Bayu Undan is expected to run dry within the next decade. Moreover, a Timorese sovereign wealth fund that is currently valued at \$16 billion is being depleted by higher government spending. The so-called national unity government of Xanana Gusmão's CNRT and Fretilin has sought to dissipate social tensions in impoverished East Timor by providing limited cash grants and other entitlements to different sections of the population. According to some reports, if current trends continue, the sovereign wealth fund will be exhausted by the late 2020s.

Timorese government hopes for significant concessions in border negotiations will be dashed. For Australian imperialism what is at stake is not just the fate of the Greater Sunrise reserves but its wider geostrategic standing in the region. Sections of the Australian media have this week openly tied the resolution of the border issue to the ongoing efforts to minimise Chinese economic and political influence in Dili.

Another important consideration is the Indonesian response to an Australian-Timorese border. Canberra finalised its maritime border with Indonesia in 1971–72, just five years after Australia supported the Indonesian military coup that saw the mass murder of up to one million workers and peasants associated with the Communist Party. In the negotiations, the junta accepted Australian claims that the border ought to follow an underwater "continental shelf" that extends close to Indonesian land. Since the 1971–72 treaties, international law has largely rejected claims based on purported continental shelves, instead favouring borders equidistant between states' land masses.

Australian officials fear that a negotiated Timorese border could trigger an Indonesian attempt to force a renegotiation of its border with Australia. The redrawing of this border in accordance with contemporary international law would see Australia lose swathes of maritime territory adjacent to some of the world's most critically important naval trade chokepoints. This would have significant implications amid accelerating moves by US imperialism for a military confrontation of China.

