

Jan 28 2018 at 4:41 PM

## Fresh Timor-Leste election may delay border, Sunrise talks



A commercial decision by the Sunrise joint venture group comprising Woodside, Conoco-Phillips, Shell and Osaka Gas is likely to be delayed by the election. **Rob Homer**

by **Michael Sainsbury**

Timor-Leste President Francisco Lu Olo Guterres' move to end a six-month political deadlock and call fresh elections for the second time in nine months comes at an awkward time for the nation's renegotiation of its maritime boundary with Australia.

There is now confusion in the capital Dili over who will sign the agreement, due to be finalised in March under the auspices of a UN court, in the midst of an election campaign expected to stretch into April and possibly May.

A commercial decision by the Sunrise joint venture group comprising Woodside, Conoco-Phillips, Shell and Osaka Gas is also likely to be delayed by the election and subsequent jockeying among the parties to form a government.

Chief negotiator for Timor-Leste in three-way talks between the two countries and the Sunrise joint venture is former president and prime minister Xanana Gusmao, leader of the largest opposition party. He now finds himself in a situation where he must finalise the maritime boundaries and continue energy deal talks while fighting an election.

"The settlement of permanent maritime boundaries is in sight," former Labor MP and legal advisor to Timor-Leste on maritime boundaries Janelle Safin told the *Australian Financial Review*

"It has been a fault line in our bilateral relationship, despite many positive developments," she said.

The new deal was mandated to be signed by March 2018 by the UN Court of Permanent Arbitration in The Hague after the [tiny Asian nation won a court battle with Australia to have the lopsided 2006 Treaty on Certain Maritime Agreements in the Timor Sea set aside](#); the 2002 Timor Sea Treaty is now back in force until a new deal is finalised.

A draft agreement was announced in October last year, but the details were not made public and a number of sticking points remain.

In December last year the court said that "the draft treaty delimits the maritime boundary between Timor-Leste and Australia in the Timor Sea and establishes a Special Regime for the area comprising the Greater Sunrise gas field".

"Australia is working in good faith to deliver a comprehensive outcome in the Timor Sea conciliation process by 1 March 2018," a DFAT spokesperson said. "The comprehensive package agreement committed to by both Parties includes a permanent maritime boundary as well as agreement on a pathway to develop the Greater Sunrise resource."

"Both the Government and Opposition in Timor-Leste have expressed support for the maritime boundary agreement that has been reached under the auspices of the UNCLOS [Convention on Law of the Sea] Conciliation Commission."

But Bernard Colleary, the Canberra-based lawyer who ran the case for Timor-Leste in The Hague, has argued that the new deal is still compromised.

"The best deal for Timor-Leste is for it to secure its full sovereign rights without any compromise over location of pipelines or revenue sharing," Colleary told the *AFR*.

"Every time it has compromised it has struck a poor deal. Being told to compromise because Timor-Leste will run out of money in the future is a poisonous atmosphere in which to be signing a deal.

The final shape of the maritime boundaries deal can be crafted without the specifics of the commercial development of the resource-rich Greater Sunrise basin, which contains 5.13 Tcf of gas and 225.9 MMbbl of condensate.

"The deal on the table will not be derailed by commercial considerations," a person familiar with the talks said. Indeed the joint venture is understood to be less concerned about the final maritime boundaries and more worried about the fiscal certainty that the boundary deal will bring, as the final shape of the development proposal.

The primary concern there is where the pipeline lands. While the joint venture company wants Darwin, Gusmao is continuing to push for Timor-Leste's south coast, an option Woodside has said may be uneconomic. Once this is decided the development platform must pass the commercial test.

"The draft treaty also establishes revenue-sharing arrangements where the shares of upstream revenue allocated to each of the Parties will differ depending on downstream benefits associated with the different development concepts for the Greater Sunrise gas field," the UN court said.

According to the Timor-Leste Constitution, any maritime deal must be signed by the president and ratified by the Timor-Leste parliament (as well as the Australian parliament). That is unlikely to be settled until mid-year.