

Land and  
Maritime  
Boundary  
Office

# NEW FRONTIERS

TIMOR-LESTE'S HISTORIC CONCILIATION ON  
MARITIME BOUNDARIES IN THE TIMOR SEA



Land and Maritime Boundary Office  
Government of the Democratic  
Republic of Timor-Leste



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# MESSAGE FROM THE CHIEF NEGOTIATOR



Less than two decades ago the people of Timor-Leste emerged from a long and difficult struggle for independence, where international indifference was the hallmark of a world order led by the influence and convenience of more powerful nations.

The 30th of August 1999 marked the end of a painful chapter in Timorese history. On that day, a small but determined population, in a stunning show of democratic consciousness, went to the polls in the face of widespread intimidation and violence, to vote for independence.

The strength, courage and resolve of the Timorese people was founded on something more than an unbreakable desire for freedom. They did not fight just to have a flag, an anthem, a president and a government of their own. The people of Timor-Leste nurtured

another dream that could only come true with the achievement of independence and that is to become active participants in the process of their own development.

This dream of realising full sovereignty did not fade as we set about rebuilding our country. With so many challenges confronting us in our State building endeavours, our objective of permanently delimiting our maritime boundaries remained present. As with our land territory, the maritime areas that belong to Timor-Leste needed to be internationally recognised as ours – as a fundamental step in our journey towards realising our full sovereignty.

Timor-Leste has two very large maritime neighbours, Indonesia and Australia. Establishing permanent maritime boundaries with Australia has been a hard-fought struggle, but of undeniable political and economic significance for our country.

Australia, though an important development partner of Timor-Leste and whose people have shown special friendship and solidarity, did not facilitate our small nation's mission to achieve full sovereignty. Coincidence or otherwise, just two months before the restoration of our independence on 20 May 2002, Australia withdrew from all international binding dispute resolution procedures on maritime boundaries.

This 'carve-out' became a prelude to a succession of obstacles that were to be faced in the years ahead, as the Australian government persistently refused invitations from Timor-Leste to negotiate permanent maritime boundaries. As such, it was only possible to achieve provisional resource-sharing arrangements to exploit the resources in the Timor Sea.

Conscious of our size and fragility, Timor-Leste knows, however, that true independence entails being less dependent on others – politically, economically and culturally.

As such, our dream of achieving permanent maritime boundaries was never overshadowed by the revenue generated by the exploitation of our seas.

Looking for pathways to achieve our goal, the United Nations Convention on the Law of the Sea offered the only avenue for a State in such circumstances: compulsory conciliation. Once again, Timor-Leste had to act boldly, as this mechanism had never been tried before, there was no precedent to follow and the prospects of success were difficult to predict.





Timor-Leste held firm in its trust in international law and in the international system, and the promise of having its dispute in the Timor Sea “mediated” by a distinguished panel of United Nations experts.

Following much internal preparation, and with the assistance of our international experts, we decided to pursue this so-far unexplored legal path. On 11 April 2016, the Government of Timor-Leste initiated compulsory conciliation with Australia.

It was not an easy process. However, our determination and the conviction that what we were seeking was fair and just, and in accordance with international law, drove us to achieve remarkable progress. With thanks to the UN conciliation process, on 30 August 2017, 18 years after the historic referendum, Timor-Leste finally achieved an agreement with Australia on the key issues, leading to the signing of the long-awaited Treaty on Maritime Boundaries in the Timor Sea in March 2018.

Timor-Leste’s journey towards that achievement is shared in this book. The final outcome of the conciliation opens a new chapter, not only for the future of our country, but also for relations between States and peoples; where the will of the great and powerful will not always prevail. It also opens up space for a renewed bilateral relationship with Australia, with the strengthening of mutual respect between our two countries. We saw our neighbour to the south turn from an “adversary” in the process, to a partner demonstrating diligence, commitment and goodwill.

While our efforts continue in ensuring a better future for all Timorese in the ongoing process of State-building – including the sovereign decision on the development of Greater Sunrise with Australia and the negotiation of maritime boundaries with Indonesia – we should pause to celebrate the remarkable success of the conciliation and the signing of the Maritime Boundary Treaty.

I believe that the story told in this book by the Maritime Boundary Office will be invaluable to all those who have followed the challenges faced by our country, as well as provide an important testament to how this international legal mechanism of conciliation can contribute to the promotion of global peace and security.

Notwithstanding our size, Timor-Leste and its people desire no more than to contribute to a more just world with peace and solidarity between peoples.

One more great stride has been taken, with small but determined steps. This is the true expression of Timorese sovereignty; a sovereignty that will be safeguarded with the same dedication and sacrifice with which independence was achieved.

**Kay Rala Xanana Gusmão**  
*Dili, 30 August 2018*





**1.**

# **INTRODUCTION**



Map 1: Timor-Leste's regional geography

Timor-Leste is a small, coastal country in Southeast Asia, wedged between two larger maritime neighbours. To the north, west and east lies the Indonesian archipelago. To the south lies the vast Australian continent, between 250 to 400 nautical miles across the Timor Sea.

For the young nation of Timor-Leste, it has been a national priority to establish permanent maritime boundaries in the seas that surround it, since becoming a State in 2002. Following a long and hard-fought struggle to claim sovereignty, Timor-Leste sought international recognition of its sovereign maritime rights. Its neighbour to the south, Australia, had resisted Timor-Leste's efforts to establish permanent maritime boundaries in the Timor Sea. Yet, the Timorese people persisted in pursuing their maritime entitlements.

The nation's surrounding seas represent the final frontier in Timor-Leste's struggle to realise sovereignty and independence.



Timor-Leste was a Portuguese colony from the 16th century until 1975. On 28 November 1975, the Revolutionary Front for an Independent East Timor (**FRETILIN**) declared the territory's independence. Just nine days after this declaration, Indonesia commenced its brutal occupation of East Timor. During the 24 years of Indonesia's occupation, the United Nations considered Timor-Leste a non-autonomous territory under Portuguese administration.

It is estimated that a third of the population died as a result of the occupation. Those who survived faced extreme poverty, malnutrition, and disease. Eventually, the voices of the unrelenting national resistance were heard by the international community, and with changing political tides in Indonesia, the fall of President Suharto's regime and the Asian financial crisis, the new Indonesian Government agreed to a UN-sponsored referendum for the Timorese people to decide their future for the first time.

On 30 August 1999, the small half-island nation known as East Timor changed its fate. After 24 years of occupation, over 98% of the voting population lined up across the country to cast their ballots in the referendum, to finally take a chance at freedom and self-determination.

In the lead up to the historic vote, the people of Timor-Leste endured voter intimidation; in its aftermath, they suffered a violent backlash by Indonesian military-backed militia. Following the vote, military forces executed a systematic campaign of violence known as 'scorched earth', razing towns and villages to the ground and terrorising the local population. Around 75% of infrastructure across the country was destroyed – schools, hospitals, power lines and roads. Over one thousand people were killed in the post-election violence.

However, in the face of intimidation, the Timorese people voted overwhelmingly and unequivocally to restore their independence. The referendum marked the end of the horror of occupation, and the beginning of the story of Timor-Leste, a nation reborn from ashes.

In the background to these history-making events, another story was quietly unfolding.

The Timor Sea, immediately south of Timor-Leste and north of its neighbour Australia, was said to be abundant with oil and gas resources, particularly in the northern area of the Bonaparte Basin, close to Timor-Leste's shores. This area had captured the interests of the resource industry and foreign governments since the 1960s.

In the early 1970s, an Australian company, Woodside Petroleum, discovered one of the largest gas reserves in the region – the Sunrise and Troubadour fields, together known as Greater Sunrise. When Indonesia and Australia signed a seabed boundary treaty in 1972, the agreed seabed line neatly skirted the edge of Greater Sunrise, such that the reserves would fall mostly in Australia's claimed seabed area.

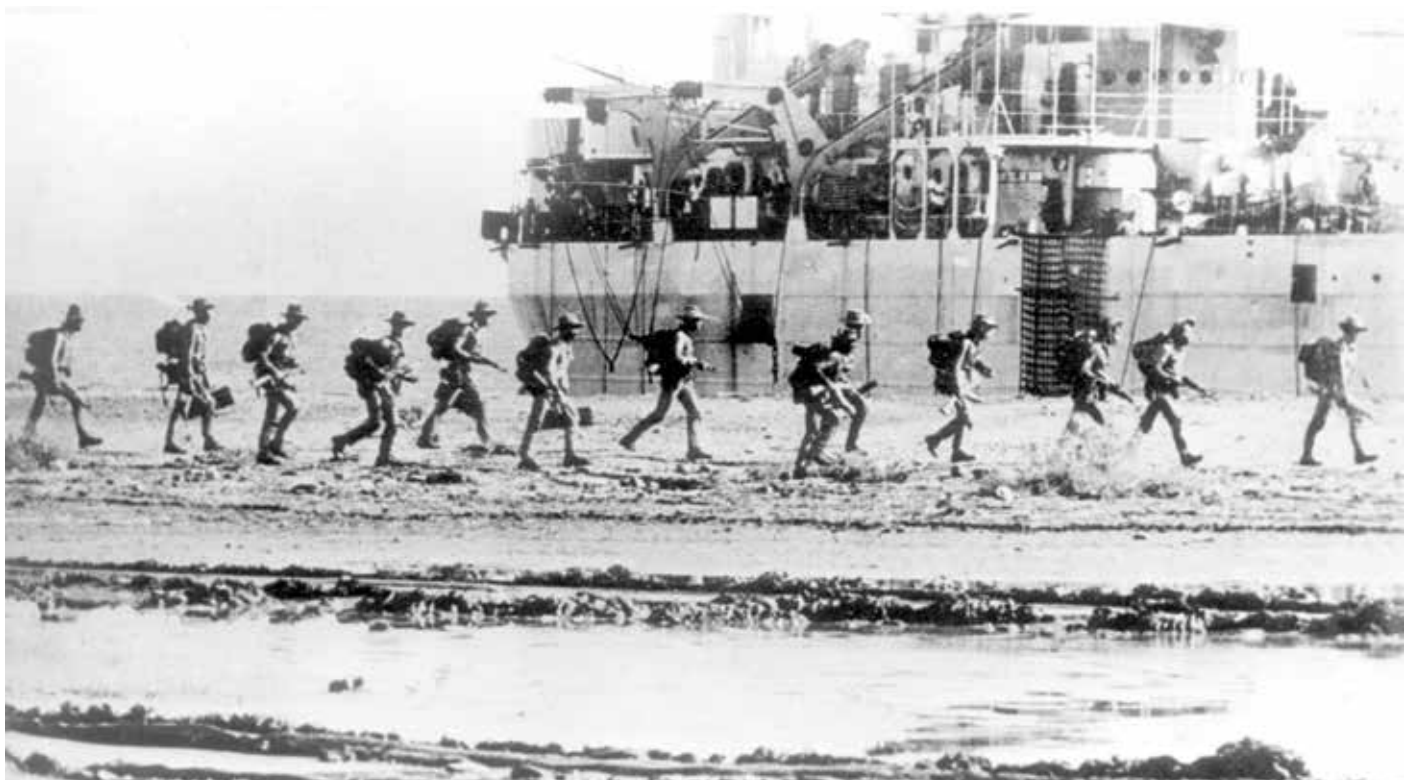
Just three years later, on 7 December 1975, the half-island nation was invaded by Indonesian forces. It was during the Indonesian occupation that Australia and Indonesia were deciding how to divide the resources in the infamous 'Timor Gap.' In 1989, Australia and Indonesia signed the Timor Gap Treaty. While the Timorese did not accept this agreement, their country was closed off to the outside world and their voices could not be heard. It was not until 28 October 1990 that Australian journalist Robert Domm was able to make contact with resistance leader Xanana Gusmão who, on behalf of the Timorese people, publicly denounced the Treaty during his Australian Radio National interview.





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Map 2: The Timor Gap



By engaging in these negotiations, Australia became the only country in the world to officially recognise Indonesia's illegal annexation of the territory – an annexation that had been condemned by UN Security Council and General Assembly resolutions throughout the 1970s and 1980s.

The Timor Gap Treaty lapsed at the end of the occupation. However, the legacy of the past regime carried through to the resource arrangements negotiated by the UN Transitional Administration for East Timor (**UNTAET**) on behalf of Timor-Leste.

After the first Government was sworn in on 20 May 2002, Timor-Leste sought to move on from that dark historic legacy, and to claim the maritime areas that rightfully belonged to it under international law.

Permanent maritime boundaries are usually secured either through negotiation or, if that proves impossible, through the binding decision of an international court or tribunal. However, in March 2002, just two months before Timor-Leste's restoration of independence, Australia withdrew from all binding dispute settlement procedures concerning maritime boundaries under UNCLOS.

Timor-Leste's invitations to Australia to settle permanent maritime boundaries by negotiation were rebuffed and the focus returned to negotiating provisional arrangements for sharing the resources in the Timor Sea. The resources treaty agreed in 2006, the Treaty on Certain Maritime Arrangements in the Timor Sea (known as **CMATS**), and later challenged by Timor-Leste on the basis of espionage allegations, introduced a fifty-year moratorium to try to prevent any negotiation or legal action on maritime boundaries.

Timor-Leste was running out of options. At the same time, the Government was in the midst of rebuilding the country from the ashes, following the long military occupation. Fourteen years on, Timor-Leste was in a better position to pursue permanent maritime boundaries. Securing maritime boundaries and unlocking access to resources in the Timor Sea would give Timor-Leste a chance at both completing its sovereignty and realising economic independence.

As Timor-Leste considered its options, elsewhere contested maritime boundaries added to regional tensions. Geopolitical events evolving in the region were an unsettling reminder of the risks of leaving maritime boundaries unresolved.

In April 2016, Timor-Leste took the only option it had left: it notified Australia that it was initiating a dispute settlement mechanism under Article 298 and Annex V of the United Nations Convention on the Law of the Sea called *compulsory conciliation*, with the aim of finally settling permanent maritime boundaries.

This book tells the story of how Timor-Leste, against the odds, finally resolved its long-standing dispute with Australia over maritime boundaries through the first-ever compulsory conciliation under the United Nations Convention on the Law of the Sea.







A satellite image of the ocean, showing various islands and reefs. The water is dark blue, and the landmasses are lighter, with some green vegetation visible. The text is overlaid on the left side of the image.

**2.**

**BACKGROUND:  
TIMOR-LESTE'S PURSUIT  
OF MARITIME BOUNDARIES**



The background of the page is a satellite image of the Timor Sea. A semi-transparent satellite map is overlaid on the right side, showing the coastlines of Australia and Timor-Leste. A dashed line represents the proposed median line maritime boundary between the two countries. The map shows the complex coastline of Timor-Leste and the Gulf of Carpentaria in Australia. The sea is a deep blue, and the land is shown in shades of brown and green.

## 2.1 TIMOR-LESTE'S MARITIME BOUNDARY POSITION

The position of Timor-Leste has been clear from the outset: it seeks nothing more than its entitlements under international law. International law in this area is enshrined in the key multilateral treaty, the 1982 United Nations Convention on the Law of the Sea, and developed through the decisions of international courts and tribunals. In contexts such as the Timor Sea, where the opposite coasts of Timor-Leste and Australia are less than 400 nautical miles apart, the standard methodology for delimiting maritime boundaries involves drawing a line half-way between the coastlines, and then making any necessary adjustments to take into account any relevant circumstances and achieve an 'equitable solution' as defined under international law.

Based on this standard approach, Timor-Leste has consistently called for a 'median line' to be drawn in the Timor Sea, mid-way between the two coasts.

Australia, however, never accepted the median line position, and raised various legal, political and historical reasons for maintaining the status quo. Before the conciliation began, Australia supported the status quo, namely, sustaining the provisional arrangements to share the petroleum resources above the median line in the Timor Sea, instead of delimiting permanent maritime boundaries. The legal arguments floated on the extent of Australia's maritime entitlements in the Timor Sea defied scrutiny; Australia's withdrawal from the binding procedures under the Convention meant that Timor-Leste had no recourse to a court or tribunal to make a conclusive determination on where the maritime boundary would lie under international law.

## 2.2 BRIEF HISTORY OF THE TIMOR SEA

The status quo that emerged in the Timor Sea was, in many ways, a product of its unique geography and history.

### Geography

Timor-Leste has a total land territory of 15,410km<sup>2</sup> and a population of over 1.2 million people, with around 75% living in rural areas and over 85% relying on subsistence agriculture and fisheries for their livelihoods. By comparison, the Australian landmass covers 7.69 million km<sup>2</sup> and hosts a population of around 25 million people.

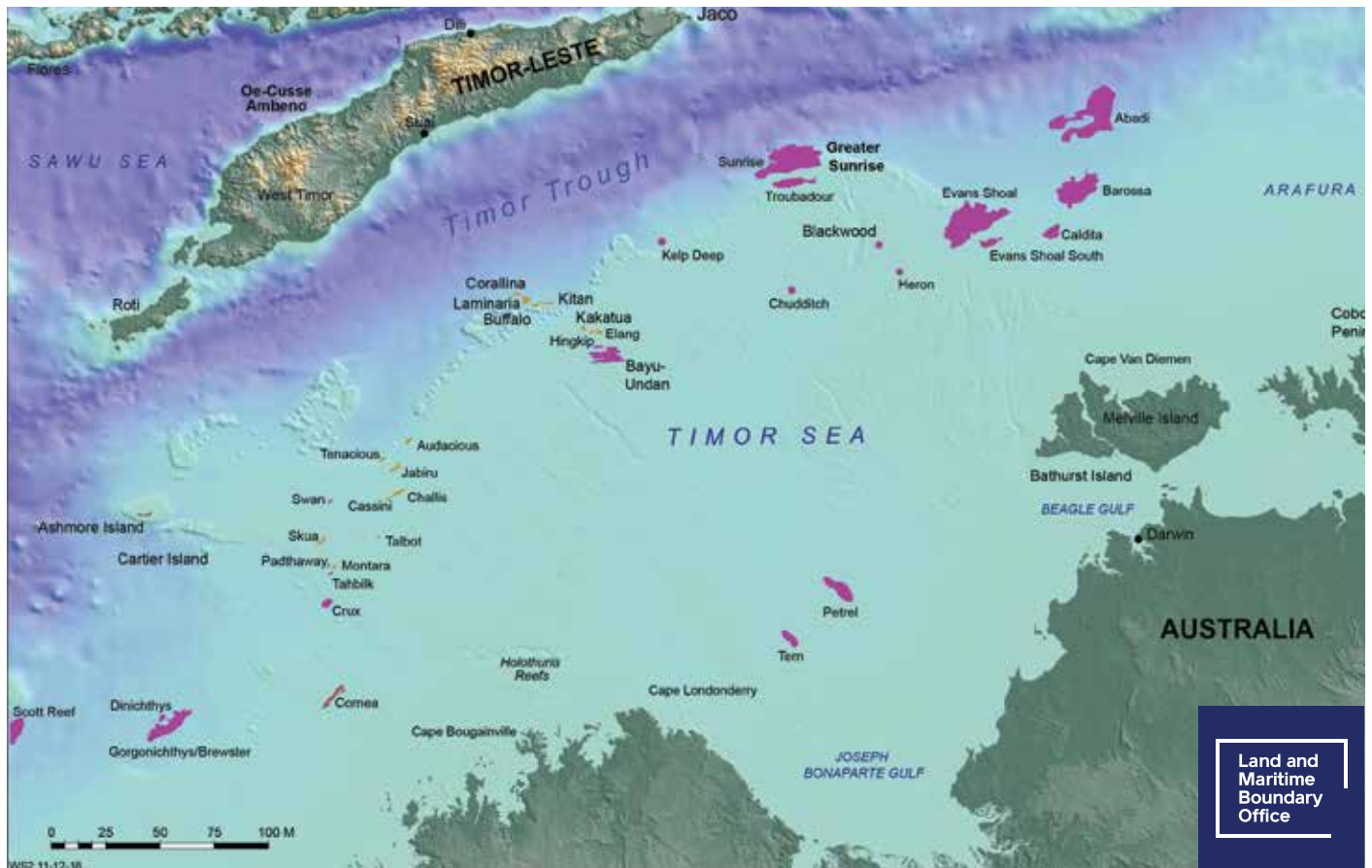
Timor-Leste is one of Australia's closest neighbours. While Timor-Leste has made remarkable development progress, the new nation faces many challenges in recovering from its recent history of devastating conflict. As a hangover from the past, Timor-Leste continues to face widespread poverty, high levels of unemployment, and malnutrition. Adding to the pressures on the economy and social services, Timor-Leste is one of the youngest nations in the world, with 74% of the population under 35 years of age.

Australia, in contrast to Timor-Leste, has one of the largest exclusive economic zones in the world. By 2004, Australia had negotiated maritime boundaries with all of its neighbours, except for Timor-Leste. The disputed area between the two States in the Timor Sea represented less than 2% of Australia's total maritime boundary.

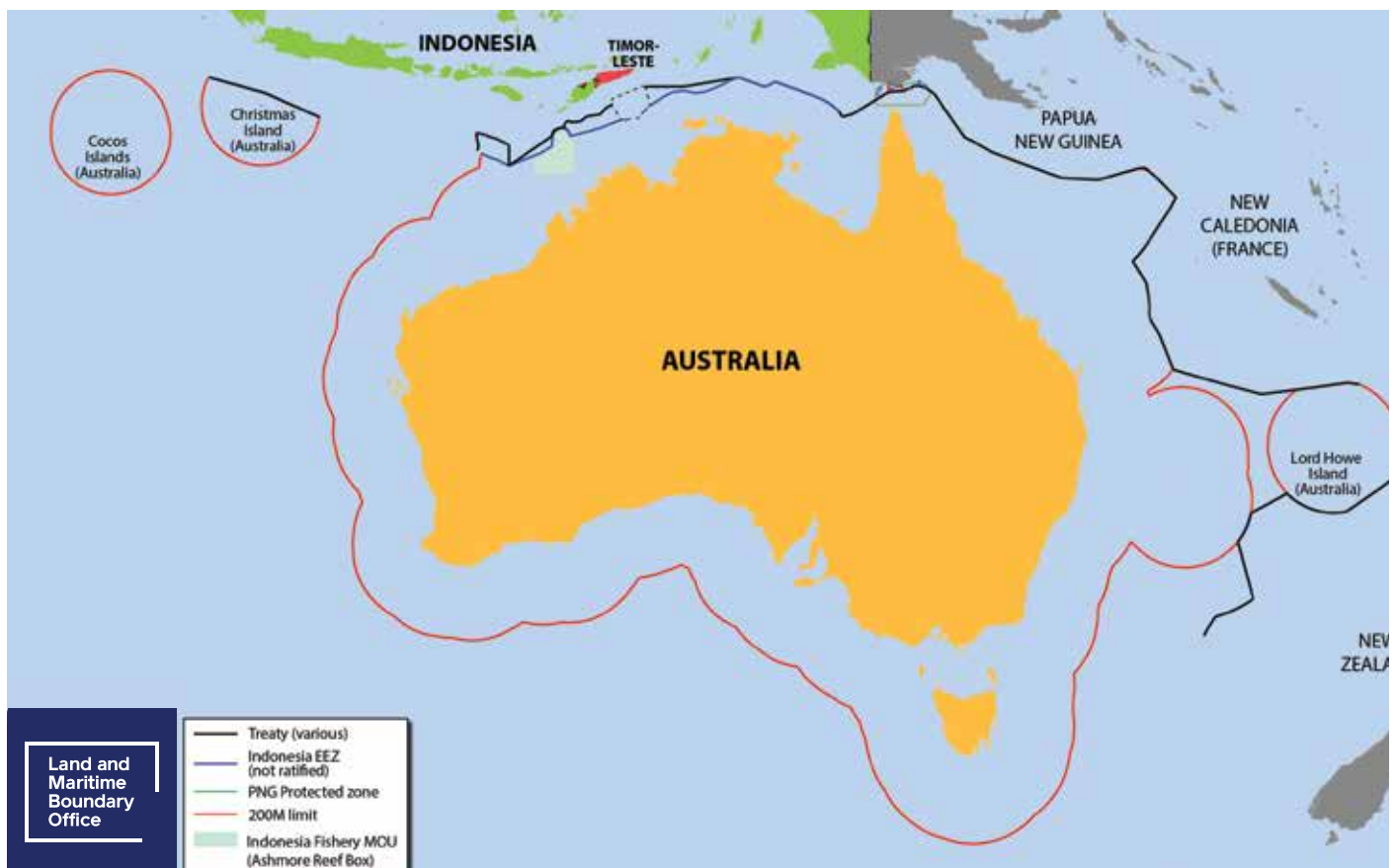
The history of the Timor Sea is complicated by the resource wealth that lies within it.

The Timor Sea is relatively shallow, except for a deep and narrow fold in the continental shelf called the Timor Trough, around 50 nautical miles off the south coast of Timor-Leste. Substantial oil and gas fields have been discovered within the Bonaparte Basin, a major prospective zone, which extends from Australia to the edge of the Timor Trough. The most lucrative oil and gas prospects are concentrated in the north of this basin, close to Timor-Leste. The largest field, Greater Sunrise, lies dormant about 73 nautical miles from Timor-Leste's coast.





Map 3: The resources and geomorphology of the Timor Sea



Map 4: Australia's maritime zones with other neighbours

### Previous resource arrangements

The deal-making over the Timor Sea resources has been rigorously documented. Suffice to say, the legacy of the provisional resource arrangements between Timor-Leste and Australia can be traced back to that difficult past.

On the very day of the restoration of independence, 20 May 2002, Timor-Leste signed the Timor Sea Treaty with Australia which mirrored Australia's 1989 Timor Gap Treaty with Indonesia, but allocated a larger share of revenues from the Joint Petroleum Development Area (**JPDA**) to Timor-Leste. Within a few years, Australia and Timor-Leste agreed another provisional resources treaty, the 2006 CMATS treaty, which shared the revenues from Greater Sunrise equally.

Australia's public statements indicated that the Government regarded its actions as generous towards its poorer neighbour. However, from Timor-Leste's perspective, the JPDA and Greater Sunrise both lay north of the purported median line, in an area closer to Timor-Leste and within its maritime claim. Further, Australia had already reaped the majority of wider economic and employment benefits from the JPDA, since a pipeline was built from the Bayu-Undan field to Darwin for the processing and export of gas. Construction of the pipeline and a new processing facility in Darwin were both completed in 2006.

Timor-Leste maintained that the provisional resource arrangements under the Timor Sea Treaty and CMATS did not reflect the full extent of the seabed or continental shelf rights to which it was entitled under international law. The nation continued to pursue its permanent maritime boundaries, as a matter of sovereign rights.



## 2.3 A ROUGH ROAD TOWARDS MARITIME BOUNDARY NEGOTIATIONS

The eventual successful conclusion of a maritime boundary treaty is all the more remarkable given the obstacles that had to be overcome to reach a resolution. In the lead up to Timor-Leste's decision to initiate the conciliation, relations with Australia were complex and framed by a dramatic unfolding of events.

### Espionage case at the Permanent Court of Arbitration

First, on the basis of information about the illegal bugging of Timor-Leste's negotiating team in the capital of Dili during the CMATS treaty negotiations in 2004, in April 2013 Timor-Leste commenced arbitration proceedings against Australia at the Permanent Court of Arbitration at The Hague, challenging the validity of the CMATS treaty.

### Document seizure case at the International Court of Justice

Second, while those proceedings were underway, the night before the hearing at The Hague, on 3 December 2013, Australian security intelligence officers raided the offices of one of Timor-Leste's lawyers in Canberra and seized confidential documents and data belonging to Timor-Leste. The seized documents included internal legal advice. Despite Timor-Leste's requests, the Australian Government refused to return these materials.





Timor-Leste commenced proceedings at the International Court of Justice seeking, among other things, a declaration that the seizure of such materials was unlawful. In March 2014, the International Court of Justice handed down a landmark decision directing, by 15 votes to one, that *“Australia shall not interfere in any way in communications between Timor-Leste and its legal advisers”*, including in connection with any future boundary negotiations or any other related procedure between the two States. Over one year later, Australia returned the seized documents and data to Timor-Leste.

Notwithstanding these diversions, Timor-Leste persisted in its quest for permanent maritime boundaries.

### **Failed attempts at maritime boundary negotiations**

In September 2014, Timor-Leste agreed to suspend both the espionage arbitration and document seizure case, so that the Parties could pursue negotiations and attempt to settle the cases. Throughout these consultations, Australia declined to discuss the issue at the heart of the difference: permanent maritime boundaries. Timor-Leste proposed a form of third party-assisted mediation to help resolve the boundary dispute. However, after six months of intensive bilateral consultations, no agreement was reached.

Australia continued to resist engaging in discussions on permanent maritime boundaries with Timor-Leste. Instead, the focus was on sharing petroleum resources. The previous provisional arrangements between Australia and Timor-Leste to manage oil and gas activities in the Timor Sea were expressly stated to be ‘without prejudice’ to the final delimitation of boundaries. However, Australia sought to rely on the ‘moratorium’ clause under CMATS, which was said to prevent the Parties from discussing maritime boundaries for a period of 50 years.

On several occasions, over many years, Timor-Leste asked the Australian Government to commence talks pursuant to the obligations of both Parties under the Convention, to reach agreement on permanent maritime boundaries. As recently as February and August 2016, the Prime Minister of Timor-Leste wrote to the Prime Minister of Australia, requesting negotiations on permanent maritime boundaries. The invitations were not accepted.



## Gabinete das Fronteiras Marítimas

## 2.4 TIMOR-LESTE'S NATIONAL INSTITUTIONS AND NEGOTIATING TEAM

As Timor-Leste sharpened its focus on resolving its maritime boundaries, the country built strong national institutions and developed its capacity to face its larger neighbours and claim its maritime rights.

Securing maritime rights is not an easy task, especially for a fragile nation in recovery from conflict. For several years following the restoration of independence, Timor-Leste was preoccupied with rebuilding the country from the ground up. In the early stages of self-governance, the Timorese leadership was eager to pursue permanent maritime boundaries, but did not necessarily have the resources or institutional capacity.

More recently, the Timor-Leste Government established institutions dedicated to the ambition of concluding maritime boundaries, as a key national priority. In April 2015, the Government set up the Council for the Final Delimitation of Maritime Boundaries as the overarching body to take forward the maritime boundary agenda. Within that structure, an advisory body was created, overseen by the Prime Minister and comprising the elders of the nation, including former Presidents and Prime Ministers, as well as senior Ministers.

To reflect the importance of this national priority, the founding father of the nation and its first elected President and former Prime Minister, Kay Rala Xanana Gusmão, was appointed as the Chief Negotiator for Maritime Boundaries. The Maritime Boundary Office was established as the operational arm of the Council, tasked with coordinating and managing the Government's efforts to achieve maritime boundaries, under the instruction of the Chief Negotiator, reporting directly to the Prime Minister.

When the decision was made to initiate conciliation, the Government designated Chief Negotiator Xanana Gusmão to lead the negotiating team in the proceedings. Agio Pereira, the Minister of State and of the Presidency of the Council of Ministers, was appointed as the Agent in the conciliation. Elizabeth Exposto, Chief Executive Officer of the Maritime Boundary Office, served as Timor-Leste's Deputy Agent.

In the lead up to the decision, Timor-Leste had already assembled a world-class team of expert advisers to inform its legal strategy. The Government was advised by the leading international law firm, DLA Piper, led by Stephen Webb (Head of Energy, Asia-Pacific), Janet Legrand QC (Hon.) (former Chair of the Board and Senior Partner), and Gitanjali Bajaj (Partner).

Two of the top barristers in the field of law of the sea were briefed on the matter: Vaughan Lowe QC, Professor in Public International Law at Oxford University, and Sir Michael Wood KCMG KC, former chief legal adviser at the UK Foreign and Commonwealth Office, both with vast experience representing States in maritime boundary disputes. They had the support of technical expert Dr Robin Cleverly, previously the head of the Law of the Sea Group at the UK Hydrographic Office.





Internal meeting between Senior Counsel, DLA Piper and MBO legal teams.

## 2.5 'TIME TO DRAW THE LINE'

In May 2015, consultations had concluded and no settlement on maritime boundaries had been reached. Pressure continued to mount. There was a growing call across Timorese and Australian civil society for the two States to resolve their maritime boundaries on the basis of international law. On 22 March 2016, more than 10,000 Timorese protested outside the Australian Embassy in Dili against the Australian Government's refusal to negotiate maritime boundaries. In Australia, friendship and solidarity groups were growing more vocal in their appeals to the Australian Government to act in accordance with international law in its treatment of its smaller neighbour.

Following the end of the consultations, the Timor-Leste Government returned to the drawing board. The leadership and Council for the Final Delimitation of Maritime Boundaries met with the legal team to canvass the possible strategic pathways for pursuing maritime boundaries with Australia. A new, unfamiliar option was floated for the Government to consider: a mechanism called 'compulsory conciliation' under Article 298 and Annex V of the Convention on the Law of the Sea.

It was not an easy decision to make. The process had never been tried before; there was no precedent to follow and the prospects of success were difficult to predict.

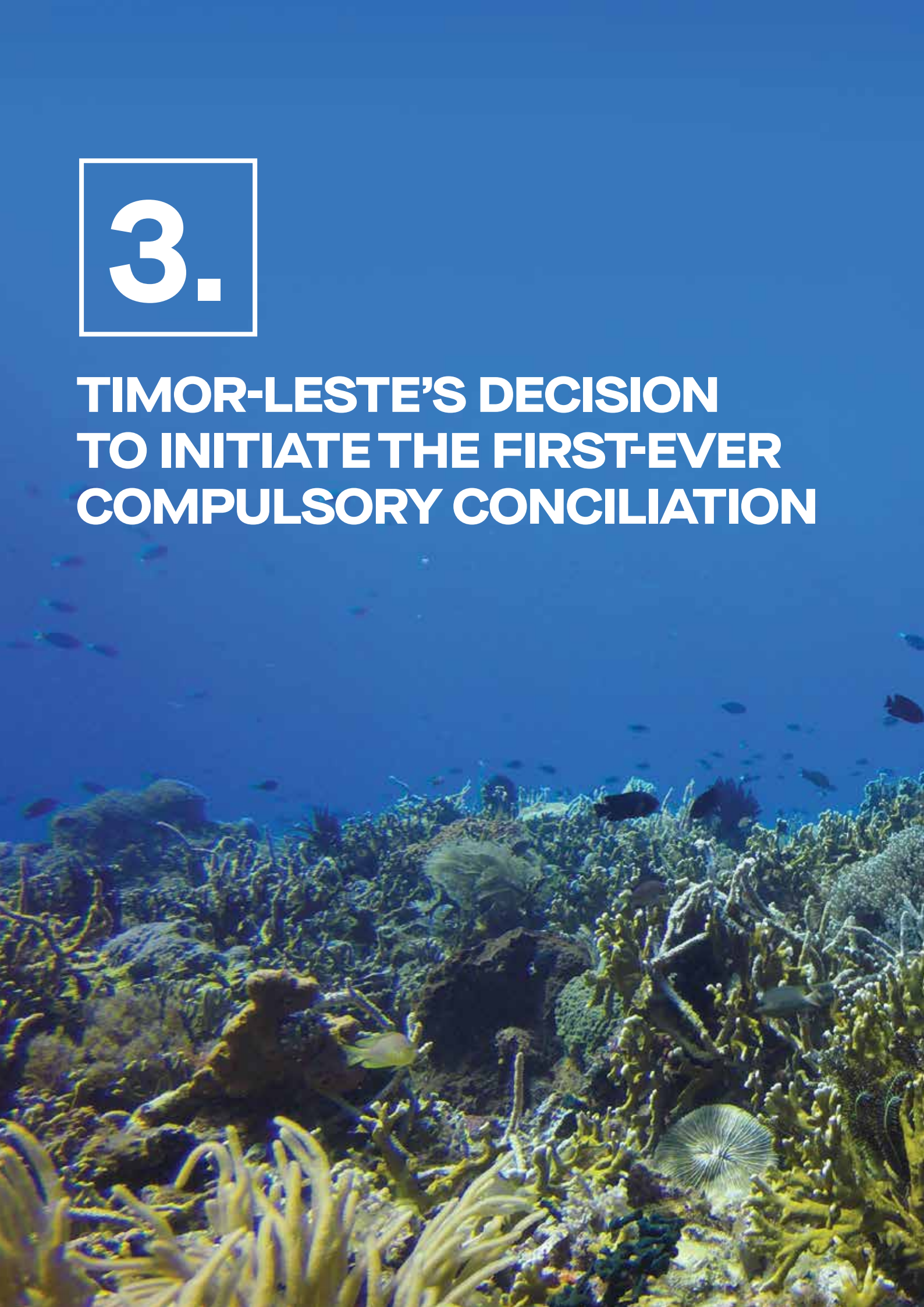
On 11 April 2016, Timor-Leste made a bold decision and became the first nation in the world to commence compulsory conciliation under the Convention.

*"Establishing permanent maritime boundaries is a matter of national priority for Timor-Leste, as the final step in realising our sovereignty as an independent State."*

Prime Minister Rui Maria de Araújo, 11 April 2016







**3.**

## **TIMOR-LESTE'S DECISION TO INITIATE THE FIRST-EVER COMPULSORY CONCILIATION**



### 3.1 WHAT IS 'COMPULSORY CONCILIATION'?

The United Nations Convention on the Law of the Sea foresaw the unique situation that Timor-Leste found itself in: where a neighbour not only refuses to negotiate on maritime boundaries, but has also withdrawn from binding dispute settlement procedures under the Convention. For coastal States caught in such a bind, the Convention offers the avenue of compulsory conciliation as a last resort to facilitate a resolution. This mechanism was designed to ensure that no maritime boundary dispute is left unresolved, in the interests of maintaining international peace and security.



Relevantly, Article 298 of the Convention provides that compulsory conciliation is available in the specific circumstances where:

- There is a maritime boundary dispute arising after the entry into force of the Convention;
- One State has withdrawn from binding dispute settlement procedures (under Part XV, Section 2 of the Convention) with respect to sea boundary delimitations; and
- No agreement has been reached within a reasonable time in negotiations between the parties.

The conciliation is 'compulsory' in the sense that the process proceeds even if one party declines to take part; the Conciliation Commission will make recommendations in any event. Normally, both parties will come to the table and negotiate, but they are not obliged to reach agreement. Unlike a court or arbitration procedure, there is no binding legal decision imposed on the parties at the end (although they are obliged to negotiate on the basis of the Conciliation Commission's recommendations).

The process has more similarities with mediation. It is conducted by a panel of five individuals called the Conciliation Commission, chosen by the parties, whose job is to bring the parties closer together and facilitate a resolution of the issues in dispute. At the end of the process, the Commission issues a report, either confirming the agreement reached or, if there is no agreement, offering non-binding recommendations for resolving the dispute. The report is sent to the UN Secretary-General.

Most maritime boundary agreements take several years to conclude – and typically much longer when the situation is complicated by economic interests or sensitive political factors. The compulsory conciliation process gives the parties just one year to reach a resolution.



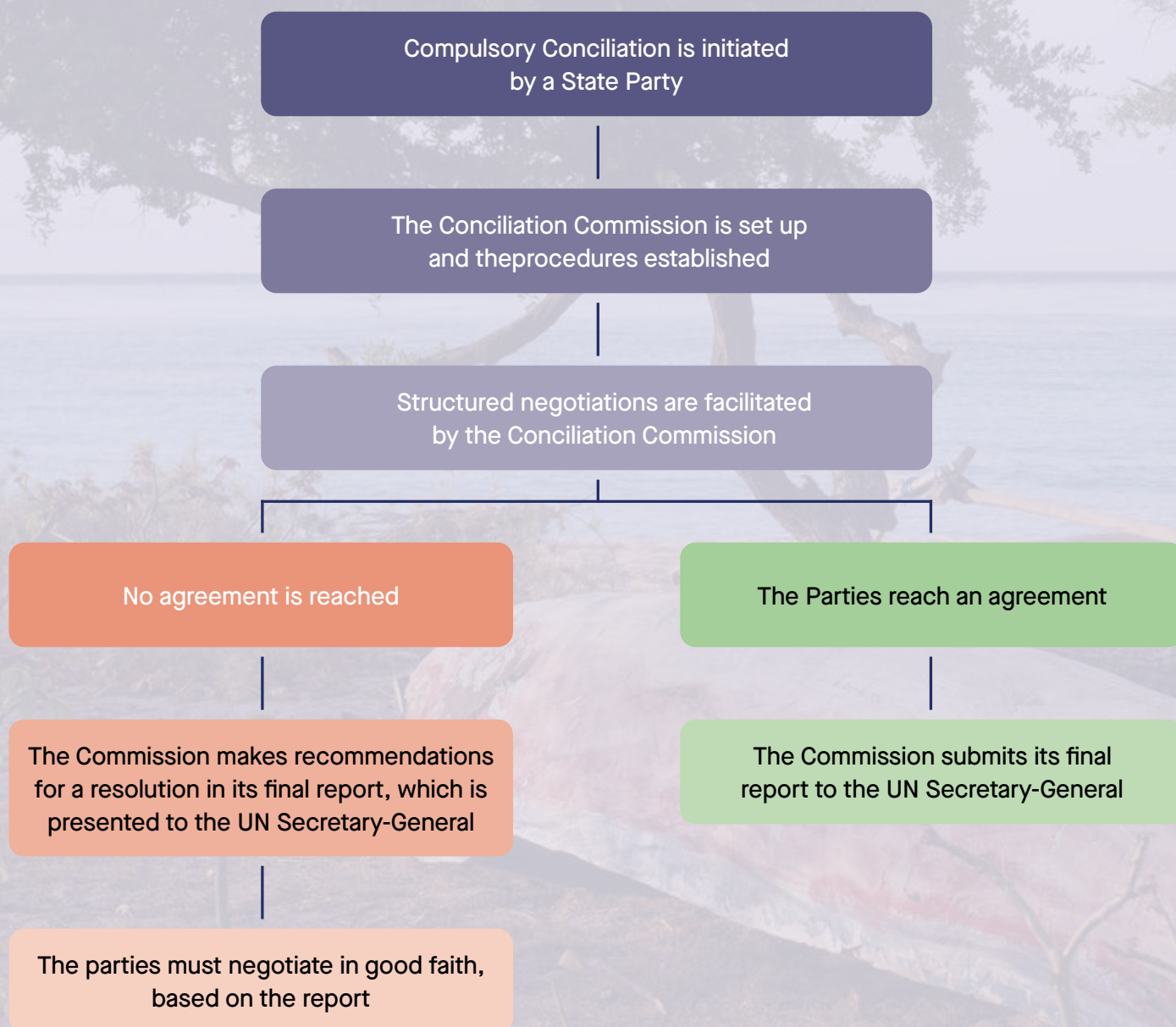


Figure 1: Stages of the compulsory conciliation process

### 3.2 COMMENCING THE FIRST COMPULSORY CONCILIATION

Timor-Leste formally began the conciliation process by issuing a notice to Australia on 11 April 2016. As the proceedings were to be constituted under the auspices of the United Nations, the Chief Negotiator delivered a copy of the notice to the then Secretary-General, Ban Ki-Moon, in New York.

In the notice, Timor-Leste nominated two members of the Conciliation Commission: Judge Abdul Koroma of Sierra Leone, a former Judge of the International Court of Justice; and Judge Rüdiger Wolfrum of Germany, a Judge of the International Tribunal for the Law of the Sea.

Australia responded on 2 May 2016, agreeing to engage in the process in good faith, in accordance with the Convention. It noted, however, that it would be raising an immediate challenge to the competence (that is, jurisdiction) of the Conciliation Commission to hear the matter. In its response, Australia nominated its two members to the Commission: Dr Rosalie Balkin, an Australian former Legal Adviser to the International Maritime Organisation and Secretary-General of the Comité Maritime International, and Professor Donald McRae, a New Zealand-Canadian international lawyer with extensive arbitral and academic experience in maritime issues.

The appointed members then chose His Excellency Peter Taksøe-Jensen, Danish Ambassador to India and a former Assistant Secretary-General for Legal Affairs at the UN, as the Chair of the Conciliation Commission. This was done in consultation with Timor-Leste and Australia.

#### Article 298 of the Convention on the Law of the Sea

##### Optional exceptions to applicability of section 2

*"1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:*

*(a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;*

*(ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree..."*

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*“Timor-Leste’s goal in these proceedings is to conclude, with the assistance of the Conciliation Commission and in accordance with [the Convention on the Law of the Sea], an agreement with Australia that delimits Timor-Leste and Australia’s permanent maritime boundaries in the Timor Sea.”*

Timor-Leste’s Notification Instituting Compulsory Conciliation, 11 April 2016

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### Procedural meeting at The Hague

The Conciliation Commission held a procedural meeting in July 2016 at the Peace Palace at The Hague, as the centre of international law. The Secretariat of the Permanent Court of Arbitration was chosen to serve as the Registry for the proceedings. At this first meeting, the Conciliation Commission and Parties agreed on the procedural rules to govern the process.

As the conciliation mechanism had never been tried before, and as the Convention had few provisions on procedural requirements, the Conciliation Commission had wide discretion and flexibility to facilitate the process. To allow for full, frank and open discussions and promote settlement of the dispute, meetings of the Conciliation Commission were to be kept confidential. However, at Timor-Leste's urging and in the interests of transparency, the Commission agreed to issue regular press releases published by the Permanent Court of Arbitration, as well as to hold a public hearing at the outset, for both Parties to publicly present their key positions.





### 3.3 STARTING POSITIONS

#### Public hearing at The Hague

The public hearing was held on 29 August 2016 at the Peace Palace at The Hague, and webcast live via the Permanent Court of Arbitration website and broadcast on national television in Timor-Leste. In Dili, crowds gathered at the Ministry of Foreign Affairs and Cooperation to witness this historic event via the live stream. At the same time, the then Prime Minister Dr. Rui Maria de Araújo and the Maritime Boundary Office launched Timor-Leste's Policy Paper on Maritime Boundaries.



*“We have not come to The Hague to ask for favours or special treatment. We have come to seek our rights under international law.”*

Kay Rala Xanana Gusmão, Chief Negotiator for Timor-Leste, during the public hearing at The Hague, 29 August 2016

The Chair opened the meeting, emphasising that *“this is a conciliation rather than an adversarial process”*, and encouraged an informal, collegial atmosphere. There were, however, palpable tensions as each side took the floor and set out their starting positions.







### Timor-Leste's public address

Chief Negotiator Xanana Gusmão, leader of the national resistance movement during the independence struggle, recounted the historical context of the dispute. *"Timor-Leste has yet to be completely freed from its past,"* he said. The Chief Negotiator described the difficult and vulnerable times during which Timor-Leste had agreed to the previous arrangements for sharing the Timor Sea resources with Australia. He remarked that Timor-Leste had repeatedly sought to negotiate a maritime boundary with Australia. *"Australia's refusal to negotiate maritime boundaries with us is difficult to explain,"* he suggested, noting that Timor-Leste is the last neighbour with whom Australia is yet to make any agreement on maritime boundaries.



*"Timor-Leste may be young, but we are not naïve. We will not shy away from claiming what is rightfully ours and we will persist until this is finally achieved."*

Elizabeth Exposto, Maritime Boundary Office, during the public hearing at The Hague, 29 August 2016

In this early public hearing, Timor-Leste put forward its legal positions. Counsel for Timor-Leste, Professor Vaughan Lowe QC, explained the legal implications of the existing petroleum treaties. Sir Michael Wood KCMG KC conveyed Timor-Leste's position on maritime boundaries, with reference to the applicable principles of international law (a brief summary of the relevant law is provided below). He explained that the standard approach under modern international law is the three-stage equidistance/relevant circumstances approach to delimitation. Under this approach, the physical characteristics of the seabed are not relevant to delimitation, where there are overlapping claims within 400 nautical miles.

Based on current law, Timor-Leste asserted there should be a median line drawn half-way between the opposite coasts of the two States, and that there was no legal justification for deviating from this median line.

Timor-Leste argued that Australia's historical position was based on principles that are now outdated. Relying on the 'natural prolongation' principle, Australia had previously argued for a seabed boundary that extends beyond the median line up to the Timor Trough, some 50 nautical miles from Timor-Leste's coastline, which it claimed was a break in the continental shelf. However, the law has moved away from this principle since the Convention and as confirmed in recent case law. Timor-Leste also challenged the scientific basis for asserting the Timor Trough is a discontinuity which splits the continental shelf in two, rather than a mere indentation in a single, continuous shelf.

Timor-Leste took the opportunity in its public address to emphasise the importance of reaching a final settlement that is fair and justified on the basis of international law.



*“As a nation modest in population and size, surrounded by two powerful neighbours, Timor-Leste takes great comfort in the basic principle of equality of States and the fairness of the international system.”*

Minister Agio Pereira, Agent for Timor-Leste, during the public hearing at The Hague, 29 August 2016

### Australia's public address

In that initial hearing, Australia made clear that *“we do not want to be here.”* Gary Quinlan, Deputy Secretary at the Australian Department of Foreign Affairs and Trade, began by noting that *“there is no proper basis on which Timor-Leste is entitled to bring this [conciliation] claim.”* Australia framed the situation as one where Timor-Leste was using the conciliation to move away from the existing resource sharing arrangements.

The Solicitor-General, Justin Gleeson, flagged that Australia intended to challenge the competence of the Conciliation Commission to hear the dispute, largely on the basis that the CMATS treaty prevented Timor-Leste from pursuing any proceedings related to maritime boundary delimitation.

Australia focused on the positive contribution it had made to Timor-Leste's development, including by assisting during the independence vote and also providing foreign aid. It remarked that the 50/50 split of revenue from the development of Greater Sunrise in CMATS was a substantial gain for Timor-Leste, given that Australia considered 80% of the Greater Sunrise field as lying in Australian waters.

While Australia said little about its position on maritime boundaries, the Solicitor-General did reiterate the relevance of the natural prolongation principle in the delimitation of the maritime boundary. This point has been continuously refuted by Timor-Leste on the basis of both international law and scientific evidence of the geology and geomorphology of the Timor Sea.



### 3.4 BRIEF SUMMARY OF RELEVANT INTERNATIONAL LAW

#### Delimitation of maritime boundaries

Under the United Nations Convention on the Law of the Sea, States are entitled to different maritime zones, such as the territorial sea, the exclusive economic zone, and the continental shelf (below).

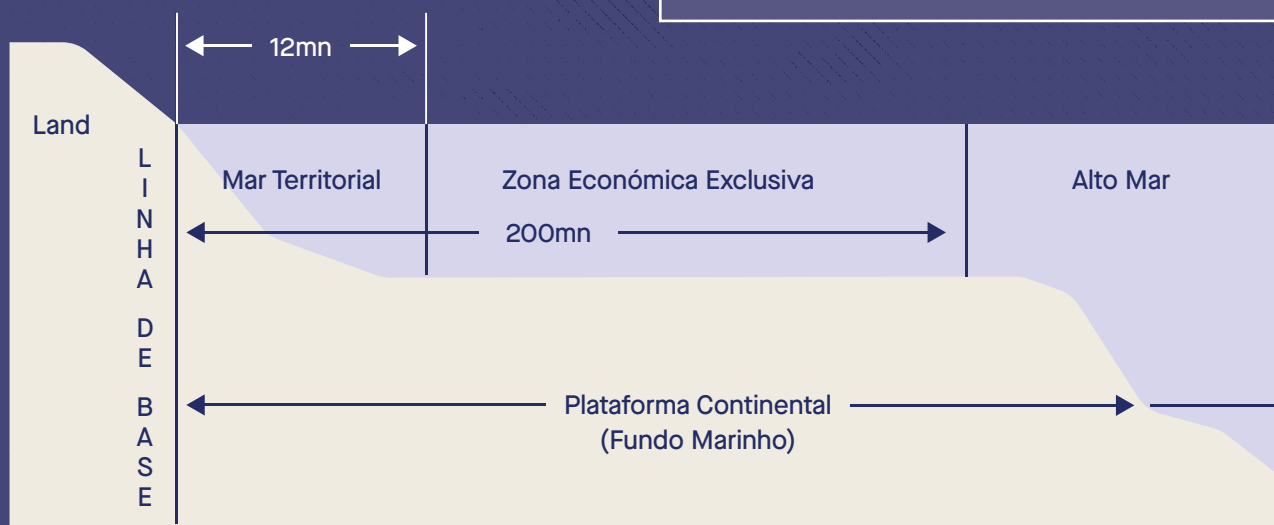


Figure 2: Maritime zones under international law

Where neighbouring States have overlapping claims to the exclusive economic zone or continental shelf (such as where there are less than 400 nautical miles between coasts), those States are required to 'delimit' the maritime boundary between them by agreement. The modern law on delimitation is codified in Articles 74 and 83 of the Convention on the Law of the Sea. The Convention requires States with overlapping claims to reach agreement on a permanent maritime boundary based on international law, in order to achieve an equitable solution.

As Timor-Leste and Australia are both parties to the Convention and there is less than 400 nautical miles between their opposite-facing coasts, they have an obligation to negotiate and reach agreement on the basis of international law.

The **territorial sea** extends up to 12 nautical miles from a State's baselines (which are generally drawn along the low-water line along the coast). States have sovereignty over airspace above the territorial sea, the water column, as well as the seabed and subsoil below.

The **exclusive economic zone** extends up to 200 nautical miles from a State's baselines. States have sovereign rights to explore and exploit the living and non-living resources of the water column and the seabed and subsoil (known as the 'continental shelf', as below).

The **continental shelf** extends to at least 200 nautical miles from a State's baselines, regardless of geological factors. In some cases, a State can claim an extended legal continental shelf beyond 200 nautical miles where there is a 'natural prolongation' of the geographical continental shelf. States have exclusive rights to exploit resources that lie in the seabed and subsoil.

Articles 74 and 83 of the United Nations Convention on the Law of the Sea provide nearly identical terms on the delimitation of the exclusive economic zone and continental shelf, as follows:

**Articles 74 and 83: Delimitation of the [exclusive economic zone or continental shelf] between States with opposite or adjacent coasts**

1. The delimitation of the [exclusive economic zone or continental shelf] between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.
2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV [Settlement of Disputes].
3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardise or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.
4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the [exclusive economic zone or continental shelf] shall be determined in accordance with the provisions of that agreement.



*“[W]hatever the geological characteristics of the corresponding seabed and subsoil [within 200 nautical miles from the State’s coast], there is no reason to ascribe any role to geological or geophysical factors within that distance either in verifying the legal title of the States concerned or in proceeding to a delimitation as between their claims.”*

Judgment of the International Court of Justice in *Libya v Malta* (1985)



### Equidistance/relevant circumstances approach

In most cases, an ‘equitable solution’ is reached by drawing an equidistance (or ‘median’) line half-way between the States’ coasts and, where necessary, adjusting it to take account of any ‘relevant circumstances’ which would otherwise distort the result, such as the presence of small, outlying islands or concave coastlines. This is the standard approach to maritime boundary delimitation, known as the equidistance/relevant circumstances approach or three-stage methodology.

Timor-Leste has always maintained that this is the approach that should be followed in the Timor Sea, and there is no reason to depart from it.



### Natural prolongation of the continental shelf

Australia’s historical position has been based on the ‘natural prolongation’ principle; it has argued for a boundary well north of the median line on the basis that the physical continental shelf projects from the Australian coast up to the Timor Trough (about 50 nautical miles from Timor-Leste’s south coast). Timor-Leste has countered this argument, both on the basis of law and scientific evidence on the geology and geomorphology of the continental shelf.

Under international law, the ‘continental shelf’ refers to the underwater seabed and subsoil projecting from a State’s land mass.

The International Court of Justice confirmed in the landmark *Libya v Malta* case (1985) that all coastal States have continental shelf entitlements extending at least 200 nautical miles from the coast, regardless of the physical features of the seabed. As such, the natural prolongation of the seabed is no longer considered to be legally relevant to maritime boundary delimitation within 200 nautical miles from the coastline.

In any case, the latest scientific evidence indicates that the Timor Trough is not a natural break in the continental shelf, but in fact a ‘compacted fold’ (or ‘crumple zone’) in a single continental shelf, which stretches to the north of the island of Timor.



Figure 3: Three-stage approach

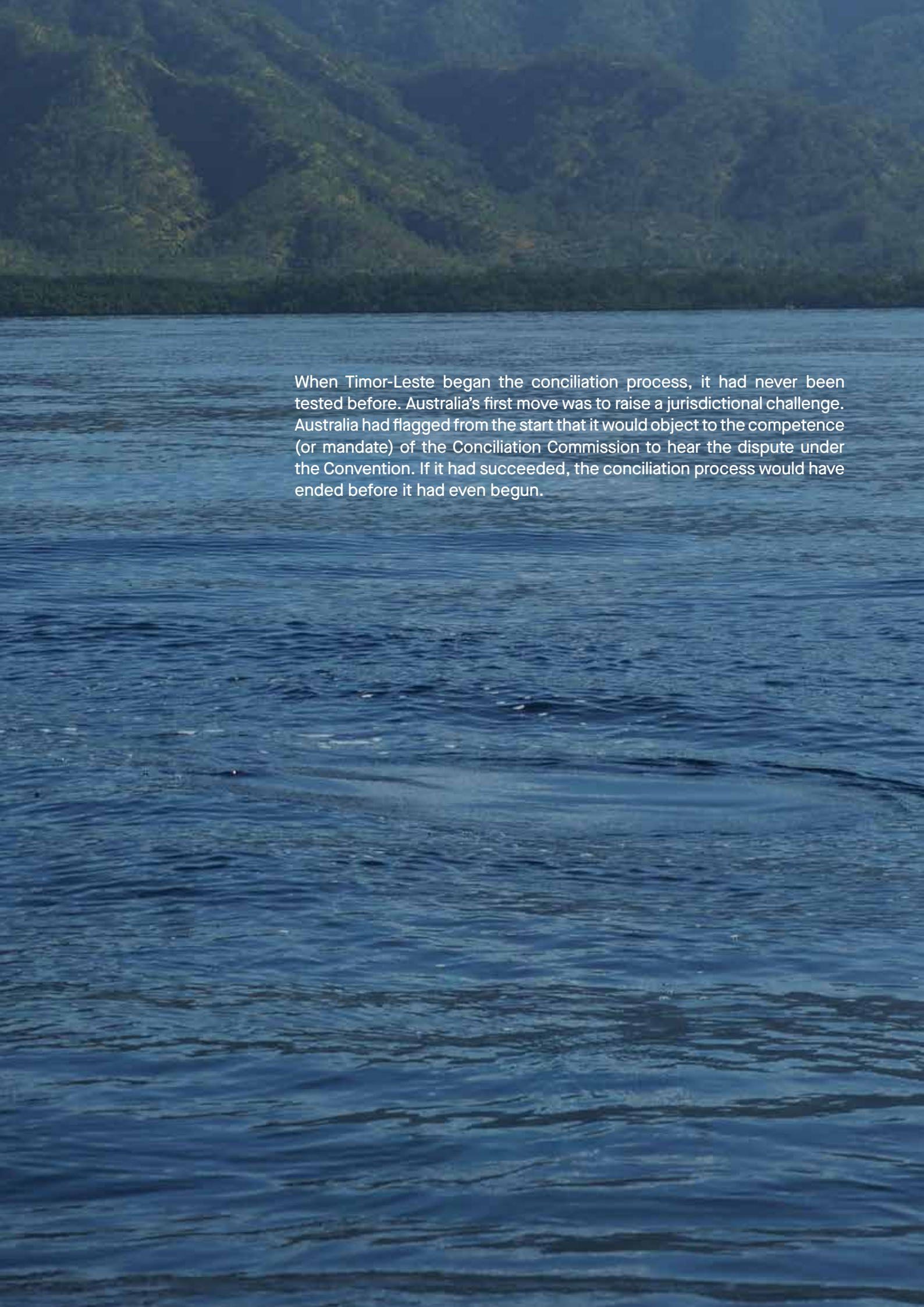


**4.**

## **INITIAL HURDLES ON THE PATH TO NEGOTIATIONS**





The background image is a photograph of a calm body of water, likely a bay or a large lake, with a dense, green forested mountain rising from the shoreline in the distance. The water is a deep blue with gentle ripples. The text is overlaid on the water, centered horizontally and positioned in the upper half of the frame.

When Timor-Leste began the conciliation process, it had never been tested before. Australia's first move was to raise a jurisdictional challenge. Australia had flagged from the start that it would object to the competence (or mandate) of the Conciliation Commission to hear the dispute under the Convention. If it had succeeded, the conciliation process would have ended before it had even begun.

## 4.1 AUSTRALIA'S JURISDICTIONAL CHALLENGE

The public hearing at The Hague set the tone for what was to follow: a tense set of hearings, behind closed doors, to address the objection Australia raised to the competence of the Conciliation Commission. Over the next few days at the Peace Palace, from 29 to 31 August 2016, Australia raised six legal grounds for its objection to competence. Timor-Leste refuted each one.

Australia's main argument was that the compulsory conciliation procedure was precluded by the Treaty on Certain Maritime Arrangements in the Timor Sea (known as **CMATS**). CMATS included a wide provision which imposed a so-called 'moratorium' against any effort by either Party to "*assert, pursue or further by any means ... its claims to sovereign rights and jurisdiction and maritime boundaries*" for the 50-year term of the Treaty. Australia also raised arguments that Timor-Leste had not met the preconditions under Article 298 of the United Nations Convention on the Law of the Sea for submitting a dispute to compulsory conciliation.

Soon after the hearings on competence, on 19 September 2016, the Commission handed down its decision. It decided, unanimously, that it had the competence to proceed with the conciliation, for the reasons summarised below.









## 4.2 THE COMMISSION'S DECISION ON COMPETENCE

### THE COMMISSION'S FINDINGS: IN SUMMARY

**Does the CMATS moratorium prevent the conciliation proceedings?**

The Commission concluded that it derives its competence from the 1982 United Nations Convention on the Law of the Sea, not from the bilateral CMATS treaty. As the Convention is the treaty that came into force later between the Parties (in 2013), CMATS does not override the Convention.

Timor-Leste had argued that CMATS cannot override the obligation to negotiate in good faith, which is enshrined in the Convention (in Articles 74 and 83). The Commission's decision upheld that obligation.

The Commission made clear that it did not interpret the moratorium as precluding any and all possible negotiations or discussions on maritime boundaries. Rather, the moratorium prevents each Party from attempting to advance its own legal position or disadvantage the other's legal position in respect of maritime boundaries. CMATS could not obstruct the conciliation from going ahead.

**Have the Parties already agreed on a dispute settlement mechanism, and excluded conciliation?**

Article 281 of the Convention precludes recourse to Part XV dispute settlement mechanisms (including compulsory conciliation) where parties have agreed to seek a settlement of their dispute by a mechanism of their choosing, and agreed to exclude other dispute settlement procedures. Australia's argument that this Article applied based on CMATS was rejected by the Commission.

**Does the Timor Sea dispute meet the conditions for compulsory conciliation under the Convention?**

Australia submitted that Timor-Leste had not met all four preconditions for commencing compulsory conciliation under Article 298 of the Convention. The Commission found that all requirements had been met. It held, for example, that the dispute had not arisen 'prior to the entry into force' of the Convention, since the 'entry into force' was in 1994, long before the dispute could have arisen. The Commission also dismissed the argument that there had been no settlement by negotiation within a reasonable time, citing Timor-Leste's repeated attempts to negotiate.

**Should the conciliation be stayed until the espionage arbitration is resolved?**

The Commission concluded that there was no material overlap between the two cases, so the conciliation could proceed without having to suspend or terminate the arbitration proceedings.



The result was a significant breakthrough: the Commission had unanimously determined that the first conciliation of its kind should go ahead.

The Commission confirmed that it would have twelve months from the date of the decision on competence to facilitate a resolution between the Parties and, if no agreement was reached, submit a final report to the UN Secretary-General.

A press release from Australian Foreign Minister Julie Bishop noted that *“Australia accepts the Commission’s decision and will continue to engage in good faith.”* The Foreign Minister added, however, that *“unlike an arbitration decision, [the conciliation] is not legally binding.”*

The response of the Australian Government lifted hopes that the conciliation process would set the path for a maritime boundary agreement. At the same time, there were reasons to be cautious. As the Parties met with the Commission in Singapore in October 2016, there had still been no commitment from Australia to negotiate on maritime boundaries, the Parties’ legal positions remained far apart, and there was still a sense of distrust between the two States.

The Commission met Timor-Leste and Australia separately, initially focusing on tackling the deeply embedded tensions. In these early sessions, the Commission took on the role of mediator, with the aim of understanding the Parties’ positions and bringing the two sides closer together. The legal issues would be left until later; the first task was to clear the obstacles in the way of commencing negotiations. A lack of trust was the first barrier.

### 4.3 CLEARING THE PATH TO NEGOTIATIONS

The history of the dispute had cast a shadow over the relationship between the two States. At the Singapore meeting, the Conciliation Commission took the initiative of offering a proposal designed to dismantle the obstacles between the Parties, step by step. They called it an ‘integrated package of confidence-building measures’.

On 9 January 2017, the Commission announced that Australia and Timor-Leste had agreed to this package and, accordingly, Timor-Leste would unilaterally terminate the 2006 CMATS treaty and Australia would recognise that it was within its rights to do so. Additionally, to “ensure stability and certainty for petroleum companies with interests in the Timor Sea”, the Governments stated that the original 2002 Timor Sea Treaty would continue in operation.

*“Both sides are to be commended for being willing to move beyond past differences and work hard to create conditions conducive to achieving an agreement, as well as stability in the meantime for all other stakeholders in the Timor Sea.”*

Ambassador Peter Taksøe-Jensen, Chair of the Conciliation Commission,  
as quoted in the press release following the Singapore meeting, 13 October 2016

Most importantly for Timor-Leste, Australia finally expressed its commitment to negotiate on maritime boundaries, contrary to its previous, long-standing policy, and that it would come to the table with a mandate to negotiate. Each of the Governments “confirmed their commitment to negotiate permanent maritime boundaries under the auspices of the Commission as part of the integrated package of measures agreed by both countries”. With respect to public communications, both Parties also agreed to approach the conciliation process with optimism and with a view to constructive engagement.





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## CONFIDENCE-BUILDING MEASURES: IN SUMMARY

### COMMITTING TO NEGOTIATE:

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- Both Parties committed to negotiate on permanent maritime boundaries.
- **8 December 2016:** Australia confirmed its commitment to negotiate, and that its negotiating team had a mandate to negotiate.
- **20 December 2016:** In preparation for the first negotiation meeting, both Parties provided confidential written submissions on their maritime boundary positions to the Commission.

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### PUBLIC COMMUNICATIONS:

- **9 January 2017:** Both Parties issued a joint statement referring to the agreed integrated package of measures, including the decision to terminate CMATS and keep the Timor Sea Treaty in effect, to ensure stability in the Timor Sea. The statement noted that the Parties would negotiate permanent maritime boundaries largely “*in a confidential setting*”.

### TERMINATING CMATS:

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- **10 January 2017:** Timor-Leste exercised its right to unilaterally terminate CMATS. The termination of CMATS came into effect three months later (on 10 April).
- **7 April 2017 (taking effect on 10 April):** Through a diplomatic exchange of notes, the Parties agreed that the Timor Sea Treaty would continue to apply in its original form as an interim arrangement before a maritime boundary treaty was agreed.

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### WITHDRAWING THE OTHER LEGAL CASES:

- **20 January 2017:** Timor-Leste agreed to withdraw its two arbitration cases against Australia, on espionage and pipeline taxation.

### WITHDRAWING THE OFFENDING ACREAGE RELEASE:

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- **10 January 2017:** In response to Timor-Leste's protest, Australia withdrew the part of its recent acreage release inviting companies to bid for petroleum exploration in an area of the Timor Sea which overlapped with Timor-Leste's boundary claims.

5.

## PROGRESS OF THE NEGOTIATIONS





Timor-Leste and Australia brought in the new year by launching negotiations on permanent maritime boundaries under the auspices of the Conciliation Commission. The month before, the Commission had asked both Parties for written submissions setting out their legal cases on the maritime boundary issues in dispute. From its shaky beginnings, the conciliation process had already begun to take a turn towards more solid ground.

From 16 January 2017, at arbitration facilities in Singapore, the Parties met separately to present their cases before the Commission. The Commission did not act as a court in hearing the submissions, but encouraged an informal, interactive process. By throwing tough questions at both sides, the Commissioners sought to challenge the Parties' entrenched positions.



## 5.1 OPENING LEGAL SUBMISSIONS ON MARITIME BOUNDARIES

The exchange of written submissions built on what had been said during the public hearing at The Hague. Timor-Leste had spelt out its view on where the maritime boundary should lie under international law, as it had done publicly in its Policy Paper, launched by Prime Minister Araújo in August 2016. Simply put, Timor-Leste sought a median line half-way between the two coasts in the Timor Sea. In legal terms, Timor-Leste proposed a maritime boundary delimited in accordance with the three-stage approach (see Section 3.4: Brief Summary of Relevant International Law). Timor-Leste asserted that, for the purposes of boundary delimitation, the physical characteristics of the seabed (including the Timor Trough) were not relevant to the delimitation of the boundary under modern international law.

Australia set out its long-awaited justification for its historical position. In the past, Australia had asserted, based on the controversial ‘natural prolongation’ principle, that it had seabed rights extending up to the Timor Trough, far north of a median line in the Timor Sea (see Section 3.4). Australia continued with the approach that the delimitation of the continental shelf should take into account the configuration of the seabed in the Timor Sea. It argued that the physical continental shelves of Australia to the south and Timor-Leste and Indonesia to the north are entirely separate. Further, Australia argued that lateral boundaries in the east and west that followed the previous Joint Petroleum Development Area (**JPDA**) limits were based on historical equidistance lines between the coasts of Timor-Leste and Indonesia.

Both Timor-Leste and Australia were mindful of the rights of their other close neighbour, Indonesia, and agreed not to delimit boundaries in areas where Indonesia had potential claims. The seabed boundary treaty struck between Indonesia and Australia in 1972 had the effect that Australia and Timor-Leste were free to bilaterally negotiate over the seabed area to the south of that boundary. In terms of the exclusive economic zone, Australia and Indonesia had signed a treaty in 1997 which delimited a boundary essentially following a median line, well south of the 1972 seabed boundary. This treaty had not been ratified and had not entered in force, although it is followed in practice by both States. As such, Indonesia continues to have potential entitlements to the exclusive economic zone (or water column) in the Timor Sea, up to 200 nautical miles from its coast, with any overlapping claims to be resolved by agreement.

To respect the potential claims of Indonesia, under the 2018 Maritime Boundary Treaty, Timor-Leste’s exclusive economic zone boundary with Australia does not extend further than essentially the eastern and western limits of the former JPDA (which represent strict equidistance lines between the coasts of Timor-Leste and Indonesia).



## 5.2 STRUCTURED NEGOTIATIONS

While even the simplest of maritime boundary agreements can take years to negotiate, the Commission set an ambitious agenda to move the negotiations forward at an unprecedented pace. The Parties would undertake structured dialogue with the Commission's oversight over ten months, from January until October 2017.



Figure 4: Conciliation meetings





From January 2017, the Commission continued to convene separate, closed meetings with each negotiating team. Except for a few brief joint sessions, the Timorese and Australian teams did not engage directly. The Commission stood in the middle as a mediator. The sessions were gruelling at times, as each team's positions were subjected to the unrelenting scrutiny of the Commissioners. The Commission tested the close-held assumptions of the negotiators – and their resilience.

Throughout the meetings, the Commission was looking to test the legal basis of each State's arguments, and identify any ground that could be claimed without crossing the 'bottom lines' of either State. The Commission members would work to understand the viewpoints expressed, and then put forward alternative compromise positions for the Parties to consider, or float possible creative options to prompt debate and discussion.

The Commission did not play by the rigid rules of a court or tribunal. Much of the political work of negotiating an agreement could not happen in the formal setting of the negotiating room. The Commissioners, at times, broke off into smaller groups and convened informal side meetings around the larger sessions, engaging with key leaders, sometimes on a one-on-one basis. That flexible strategy and fluid meeting structure became key to dissolving stand-offs and breaking through gridlocked positions.

Following a visit to Australia in late May, the Commission Chair made a trip to Timor-Leste from 29 July to 1 August 2017, together with Judge Abdul Koroma and members of the Registry (from the Permanent Court of Arbitration). The Commission delegation met with the Chief Negotiator in Dili, as well as key Timorese leaders, including the President of Timor-Leste Dr. Francisco Guterres Lu-Olo; former President and Secretary-General of FRETILIN and former Prime Minister Dr Mari Alkatiri; Timor-Leste's Agent Minister Agio Pereira; the Prime Minister Dr Rui Araújo; the Minister of Petroleum and Mineral Resources Alfredo Pires; and former President Dr. Jose Ramos-Horta.

During their visit, the Commission delegation also travelled to the south coast of Timor-Leste, to see for themselves the large-scale infrastructure built as part of the Government's strategic development plan, including a multi-lane highway and a new international airport in Suai. Just beyond the south coast of the island lay the lucrative oil and gas field, Greater Sunrise.






An aerial photograph of a coastal region. In the foreground, a large, dark, irregularly shaped reef formation extends into the deep blue ocean. The water around the reef is a lighter, turquoise color. To the left, a small settlement with several buildings and a pier is visible on a sandy beach. The background consists of rolling hills and mountains with sparse vegetation, under a cloudy sky.

**6.**

## **THE RESOURCES IN THE TIMOR SEA**



An aerial photograph of a rugged coastline. In the foreground, a calm bay with turquoise water meets a sandy beach. The background features steep, brownish mountains with patches of green vegetation. The sky is overcast with soft, grey clouds.

## 6.1 THE RELEVANCE OF RESOURCES IN THE CONCILIATION

Timor-Leste has long maintained that delimiting permanent maritime boundaries is a matter of sovereignty. Throughout the negotiations, it declared that the delimitation of the line should govern access to maritime resources. The negotiating team stood by this principle, seeking Australia's agreement on the position of the boundary under international law before engaging on issues concerning the exploitation of resources.

However, the issue of resources inevitably loomed over the conciliation process. The Timor Sea has been the subject of interest for decades, due to the riches that lie in the seabed beneath it – oil and gas reserves such as Greater Sunrise, Bayu-Undan, Kitan, Laminaria, Corallina and Buffalo. The conspicuous presence of these deposits has complicated the issue of maritime boundaries since Timor-Leste first approached Australia to negotiate, shortly after restoring its independence.

Many of the discovered fields have since been depleted. The only currently active field in the Joint Petroleum Development Area (JPDA) is Bayu-Undan, jointly developed by Timor-Leste and Australia. There is also a cluster of reserves to the north-west of the JPDA known as Buffalo, Laminaria and Corallina, which have been unilaterally exploited by Australia and are close to depletion.

Although all of the JPDA fields lie closer to Timor-Leste than Australia, north of the median line, they had been shared between the two States under the previous resource-sharing arrangements. Timor-Leste was eager to ensure that, through the conciliation, it could achieve an agreement with Australia that divided resources based on the delimitation of a permanent maritime boundary that was fair and consistent with international law.

As the negotiations progressed, however, it became increasingly difficult to disentangle the issue of boundary delimitation from the resource issues. The Commission urged the Parties to consider options for dealing with the current operations in the Timor Sea and for dealing with Greater Sunrise, while negotiating the agreement on maritime boundaries.

## TIMOR SEA RESOURCES: IN SUMMARY

### Greater Sunrise

**Area:** Unitised area including the Sunrise and Troubadour fields, which comprise a gross acreage of 2,998km<sup>2</sup> and net acreage of 958km<sup>2</sup>.

**Size:** Over 5.1 trillion cubic feet of recoverable natural gas; 226 million barrels of recoverable gas-condensate (by conservative estimates).

**Value:** Gross revenue estimates are potentially between US\$60-85 billion (with the assumption of oil prices at US\$60/barrel).

**Contractors:** The consortium developing the Greater Sunrise fields (Sunrise Joint Venture) comprises TIMOR GAP, with a 56.6 per cent stake, Woodside, with a 33.44 per cent stake, and Osaka Gas, with a 10 per cent stake.

### Buffalo, Corallina and Laminaria

Unilaterally exploited by Australia.

**Size/production rate:** While the exact accurate figures of production and revenue are only known to Australia, based on publicly available information, these three fields have jointly produced around 220 million barrels of oil equivalent. There is an estimated 200 million barrels of oil remaining in Laminaria and Corallina (Carnarvon Petroleum Limited 2017 Annual Report). Buffalo was previously producing 4,000 barrels of oil per day (approximately 1.4 million per year).

**Value:** Total value unknown; based on the licence holder's annual reporting, the taxation revenue for just Laminaria.

*All figures above are approximate only, based on the latest available conservative estimates; figures may vary widely depending on the assumptions used.*

## JPDA FIELDS:

### Bayu-Undan

**Production rates:** 20,000 barrels per day of crude oil, 561 million cubic feet per day of natural gas and 13,000 barrels per day of LPG (INPEX 2017 Annual Report).

**Value:** Gross revenue to date has been approximately US\$49.94 billion (US\$21.43 billion to Timor-Leste, helping it to accumulate a sovereign Petroleum Fund of over US\$16 billion; and US\$1.36 billion to Australia).

**Contractors:** ConocoPhillips (57.2%), Eni (11%), Santos (11.5%), INPEX (11.3%) and Tokyo Electric Power and Tokyo Gas (9.2%).

### Kitan

**Size:** 30-40 million barrels of oil at time of discovery.

**Production rates:** Since first production in 2011, production expectations were for between 35,000 and 40,000 barrels per day at peak, over an operational life of about 7 years.

Operated by Eni and ceased production in late 2015.

### Field 11-106

Located adjacent to the Kitan field. Led by Timor Gap, the national oil company, alongside Eni and INPEX, the area is currently being explored for prospectivity.







## 6.2 GREATER SUNRISE

The largest known reserves in the contested area are the Sunrise and Troubadour gas fields, collectively called 'Greater Sunrise'. Greater Sunrise remains undeveloped.

Greater Sunrise lies around 73 nautical miles off the coast of Timor-Leste, and 145 nautical miles from Melville Island off Australia's north coast. Discovered in the early 1970s, Greater Sunrise is tucked just south of the seabed boundary agreed between Australia and Indonesia in 1972 (coming within 0.7 nautical miles to the line at its closest point), which left most in Australia's claimed seabed area and a small part in the Timor Gap.

Australia's claims conflicted with Timor-Leste's potential entitlements in that area. After restoring its independence, Timor-Leste passed a national law (Law No. 7/2002) asserting its claims to the seabed (or 'continental shelf') extending at least 200 nautical miles from its coast, consistent with the United Nations Convention on the Law of the Sea, and sought to secure its sovereign rights by instigating maritime boundary negotiations with Australia.

Once negotiations had commenced over the Timor Gap, Australia proposed a unitisation agreement for Greater Sunrise, so that it would be treated as a whole and single unit for the purposes of joint exploitation. Under the 2002 Timor Sea Treaty, which continued the legacy of Australia's 1989 Timor Gap Treaty with Indonesia, 20.1% of the field fell within the JPDA and 79.9% lay to the east, in Australia's claimed area.

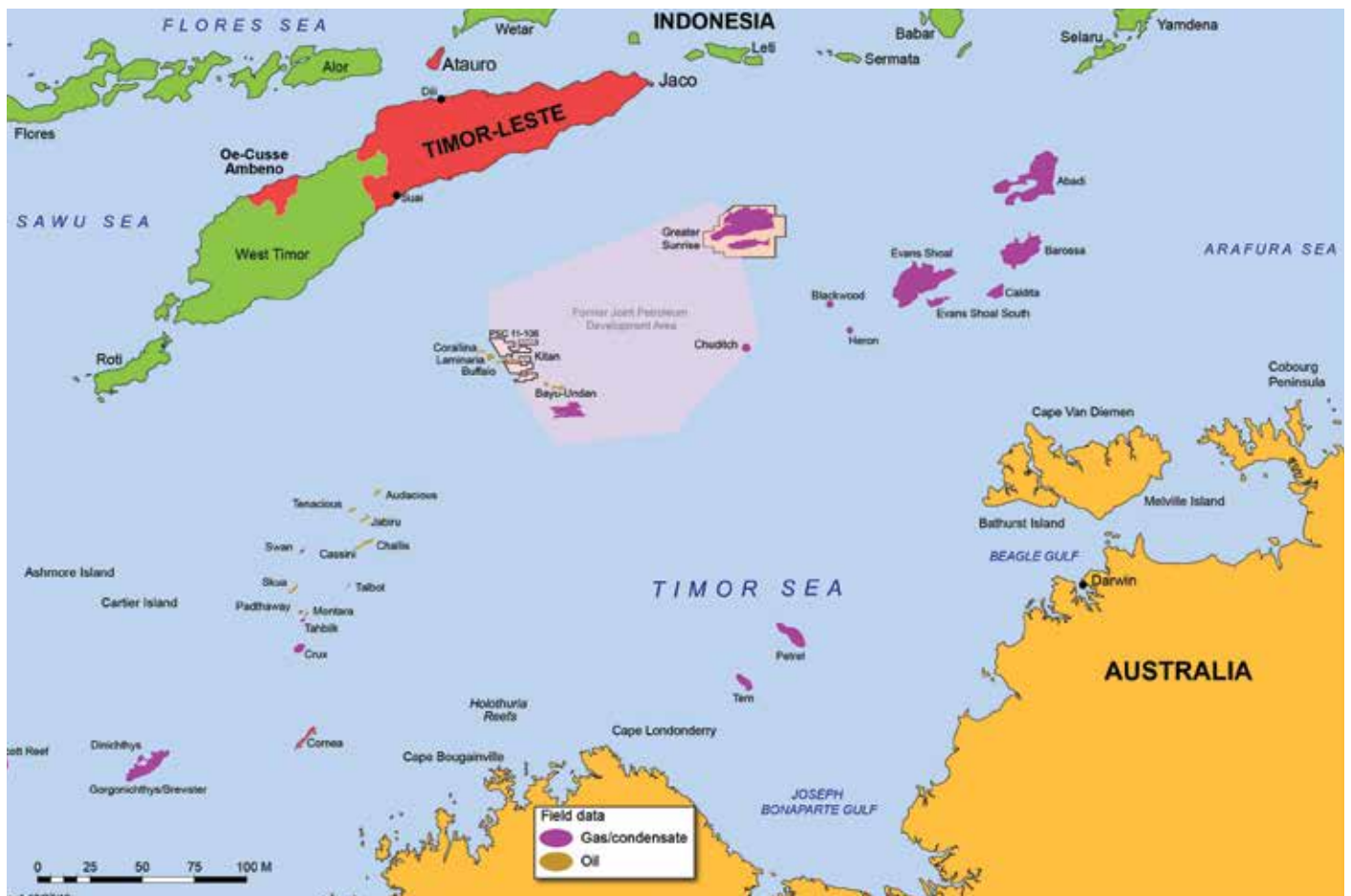
Eventually, in 2006, the Treaty on Certain Maritime Arrangements in the Timor Sea was agreed which, combined with the effect of the Sunrise Unitisation Agreement, divided the revenues from Greater Sunrise 50/50 between Timor-Leste and Australia. CMATS had sought to impose a moratorium on pursuing maritime boundaries for the 50-year term of the Treaty. The validity of CMATS under international law was later challenged by Timor-Leste in the espionage arbitration, and Timor-Leste exercised its rights under the Treaty to terminate it in January 2017.

Sovereign rights over Greater Sunrise have remained a major source of contention between the two States. While agreeing to engage in talks concerning resource-sharing in the context of the difficult early years of post-conflict recovery and critical nation-building, Timor-Leste never abandoned hope of securing permanent maritime boundaries.

In the conciliation, Timor-Leste maintained that maritime boundaries should be delimited based on international law, and its legal position was for a median line that would see the majority of Greater Sunrise within Timor-Leste's sovereign seabed area.

As the conciliation progressed, the status of Greater Sunrise became an issue that was too difficult to ignore. It would require an inventive solution.

At the urging of the Conciliation Commission, both Parties considered and debated the possibility of establishing a limited special area encompassing Greater Sunrise so that the field could be developed, without deciding on the controversial question of sovereign rights over that area.



Map 5: Resources in the Timor Sea

In moving forward, Timor-Leste sought certainty that the majority of benefits from the Greater Sunrise field would flow to its people. Timor-Leste emphasised that the people of Timor-Leste deserve not only the majority of upstream revenues (from exploration and production of gas), but also a substantial share of the job opportunities and economic advantages that inevitably flow from the midstream and downstream components (from the transportation, processing and distribution of gas). The location of the pipeline and processing facilities, in particular, are important, as they yield local jobs in the area and attract investment in public infrastructure and associated industries, as well as hospitality.

Whereas Australia had gained nearly all of the midstream and downstream benefits from the Bayu-Undan field with the construction of a pipeline to a new LNG processing facility in Darwin, Timor-Leste has maintained that it expects the majority of overall benefits from the Greater Sunrise resource to flow to the Timorese people.



### Engaging with the Greater Sunrise contractors

Towards the end of the conciliation proceedings, the Conciliation Commission suggested that it would be appropriate to invite the Greater Sunrise contractors to join separate discussions on the issues that might affect them. While decisions on the development of Greater Sunrise would ultimately be a sovereign matter for the States, the agreement would affect the interests of the contractors who had legal rights under the previous regime (of production sharing contracts agreed with Timor-Leste, and retention leases issued by Australia).

These contractors included some of the world's largest oil and gas companies: namely, Woodside Petroleum, ConocoPhillips, Royal Dutch Shell, and Osaka Gas, each with projects around the world and headquartered out of Perth, Houston, The Hague, and Osaka respectively. These four companies had entered into a Joint Venture to develop Greater Sunrise (a common investment mechanism for companies to share risk concerning the development of large fields). Under the previous licensing/contract regime, they had been granted rights to submit a development concept and plan for the field, subject to the consent of the States.

While the States retained the power to approve/reject the proposed concept for the development of Greater Sunrise, the contractors' agreement and cooperation was required to implement any decision to go forward with a development concept.

Further, the existing rights of the companies would need to be respected; they were to be given 'conditions equivalent' under any new regime for Greater Sunrise, in accordance with the Timor Sea Treaty and Sunrise Unitisation Agreement. Both Parties were also committed to ensuring that the maritime boundary negotiations did not undermine investor confidence and certainty for resource companies operating in the Timor Sea, including those with interests in Greater Sunrise.

With such objectives in mind, the Conciliation Commission brought the Parties together with the Greater Sunrise contractors at The Hague in October 2017. While keeping the details of the meetings confidential, the Commission and Parties exchanged information with representatives from the Greater Sunrise contractors regarding options for developing the field.

Two main development concepts were being canvassed. The Greater Sunrise contractors proposed developing the field by way of a pipeline to the existing LNG plant in Darwin, Australia (the 'Darwin LNG' development concept). The other option was for the field to be developed by way of a pipeline to the south coast of Timor-Leste and the construction of a new LNG plant at Beaço (the 'Timor LNG' development concept). Before any decision could be made, it was agreed that both development concepts required further work in order to be properly assessed by the Parties.



### Ongoing discussions on the development pathway for Greater Sunrise

It was clear that deeper engagement with the Greater Sunrise contractors was required to progress discussions on a development concept. While the Conciliation Commission guided the Parties and helped to develop an action plan and timeline for resolving the outstanding issues, these issues had to be determined between the Parties and the Greater Sunrise contractors in separate meetings, outside the conciliation process.

An intensive series of trilateral meetings was held between Timor-Leste, Australia and the Greater Sunrise contractors between November 2017 and February 2018. The meetings were aimed at closing information gaps, finding common ground in assumptions and building up the development concepts for the Greater Sunrise field, so that the concept proposals could be assessed on equal footing.

The final decision on the development concept rests with the States as a sovereign matter. Both States are seeking to achieve agreement on a development concept as soon as possible and with regard to agreed criteria, including that the concept *“supports the development objectives and needs”* of both States, and *“demonstrates a significant contribution to the sustainable economic development of Timor-Leste, including through clear and measurable local content commitments.”*

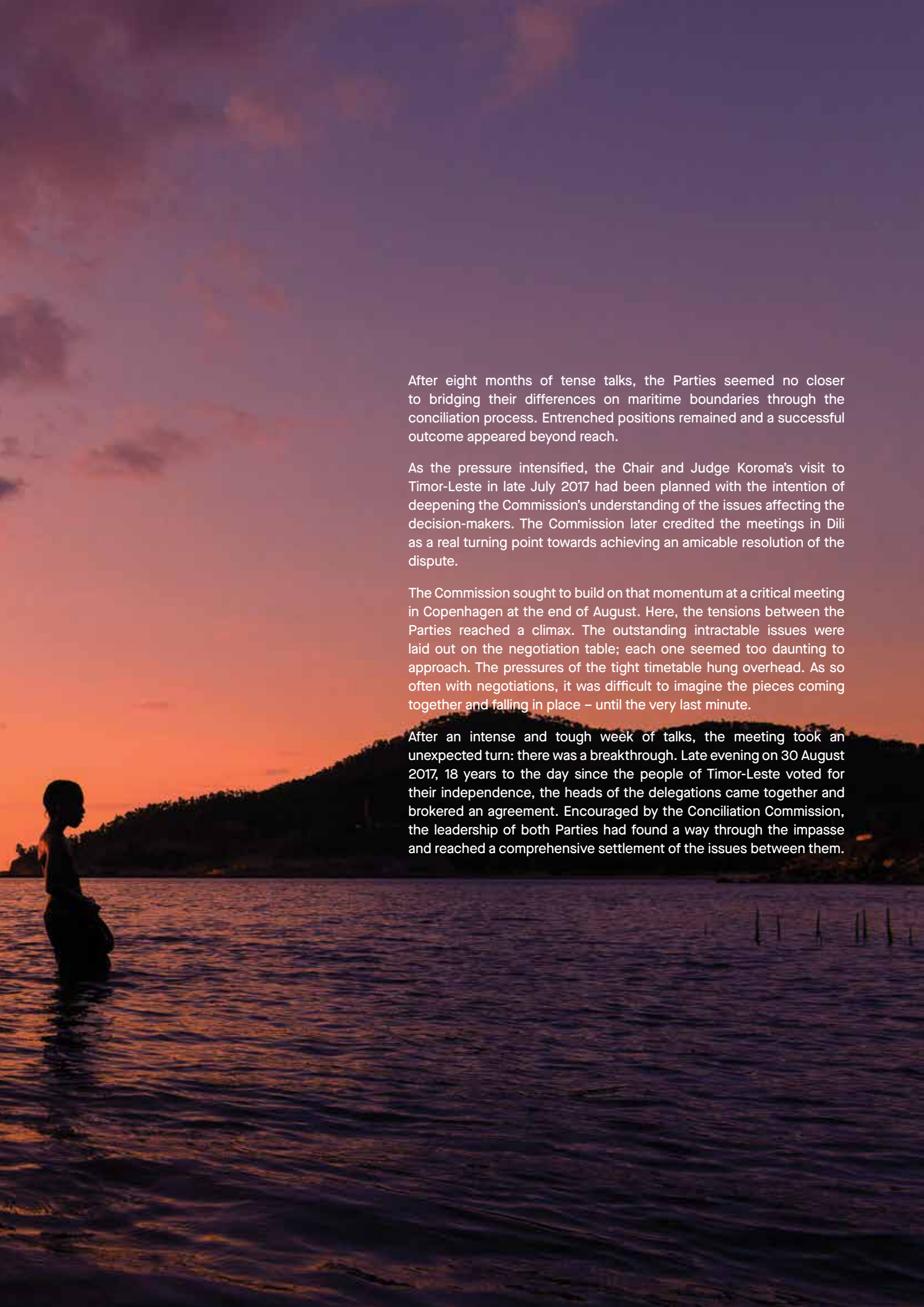
The trilateral talks between the States and the Greater Sunrise contractors that commenced during the conciliation process, but separate to the Treaty negotiations, are ongoing.

**7.**

# **THE BREAKTHROUGH: AN AGREEMENT ON MARITIME BOUNDARIES**







After eight months of tense talks, the Parties seemed no closer to bridging their differences on maritime boundaries through the conciliation process. Entrenched positions remained and a successful outcome appeared beyond reach.

As the pressure intensified, the Chair and Judge Koroma's visit to Timor-Leste in late July 2017 had been planned with the intention of deepening the Commission's understanding of the issues affecting the decision-makers. The Commission later credited the meetings in Dili as a real turning point towards achieving an amicable resolution of the dispute.

The Commission sought to build on that momentum at a critical meeting in Copenhagen at the end of August. Here, the tensions between the Parties reached a climax. The outstanding intractable issues were laid out on the negotiation table; each one seemed too daunting to approach. The pressures of the tight timetable hung overhead. As so often with negotiations, it was difficult to imagine the pieces coming together and falling in place – until the very last minute.

After an intense and tough week of talks, the meeting took an unexpected turn: there was a breakthrough. Late evening on 30 August 2017, 18 years to the day since the people of Timor-Leste voted for their independence, the heads of the delegations came together and brokered an agreement. Encouraged by the Conciliation Commission, the leadership of both Parties had found a way through the impasse and reached a comprehensive settlement of the issues between them.

## 7.1 THE COMPREHENSIVE PACKAGE AGREEMENT OF 30 AUGUST

What the Parties agreed in Copenhagen, known as the 'Comprehensive Package Agreement', became the foundational framework for the Maritime Boundary Treaty.

A press release issued by the Permanent Court of Arbitration on 1 September 2017 announced:

### KEY ELEMENTS OF THE AGREEMENT

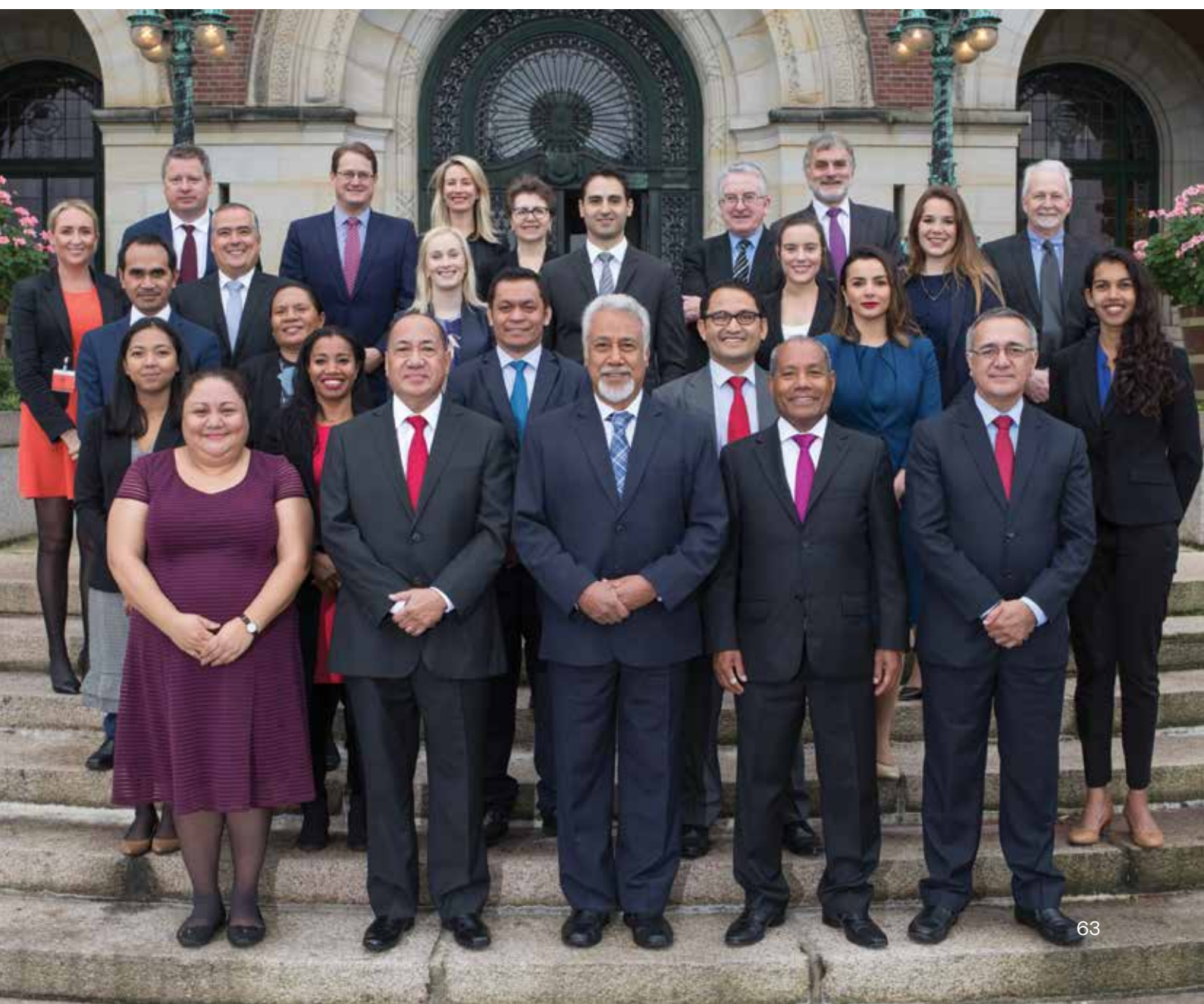
- Delimits a permanent all-purpose boundary in the south (for both seabed and water column) that essentially follows a median line; adjusted slightly in part (no more than 10 nautical miles above a strict median line) in order to reach an equitable solution, taking into account potential relevant circumstances.
- Establishes a Greater Sunrise Special Regime area, within which Timor-Leste and Australia will jointly exercise their rights as coastal States under the Convention (including to exploit the seabed resources), and jointly govern the Greater Sunrise field.
- Allows for the sharing of upstream revenue from Greater Sunrise between Timor-Leste and Australia, such that 70% is allocated to Timor-Leste if the 'Timor LNG' option (with a pipeline to the south coast) is agreed; alternatively, 80% is allocated to Timor-Leste if the 'Darwin LNG' option (using the existing pipeline to Darwin) is agreed.
- Provides for all future revenue from the Bayu-Undan, Kitan and Buffalo fields to be transferred to Timor-Leste.

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*“I commend the Parties for being able to reach an equitable and balanced solution that benefits both Timor-Leste and Australia. These negotiations have been challenging, and this agreement has only been possible because of the courage and goodwill shown by leaders on both sides.”*

Ambassador Peter Taksøe-Jensen, Chair of the Conciliation Commission

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## 7.2 NEGOTIATING THE TREATY TEXT

Now that the essence of the deal had been agreed, the pressure lifted and the relief was palpable. In a more relaxed atmosphere, the negotiating teams sat across from each other, for the first time in the absence of the Commission, to negotiate the Treaty text. Throughout September and early October, the Parties held bilateral negotiations on the detailed text of the Treaty via videoconference between Dili, Canberra, Sydney, London and Lisbon, working tirelessly over several long weeks. While the broad parameters of an agreement had been reached, there was much work required to settle outstanding issues of substance and agree on the final wording of the Treaty.

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*“This is an historic agreement and marks the beginning of a new era in Timor-Leste’s friendship with Australia.”*

Chief Negotiator Xanana Gusmão

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The Commission brought both Parties together on 9 October 2017 at The Hague to review the Treaty text under negotiation. By 12 October, the negotiators had settled a provisional draft of the Treaty text at the technical level, and submitted it to the Conciliation Commission. The leadership of both States approved the text.

In an understated ceremony at the grand Japanese room in the Peace Palace on 13 October, the Agents of both Parties initialled the Treaty text. The text was deposited into the vault at the Permanent Court of Arbitration for safe keeping, while the States prepared for the formal signature of the Treaty.

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*“Timor-Leste and Australia hope to have set a positive example for the international community at large.”*

Minister Agio Pereira, Agent for Timor-Leste

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### 7.3 SIGNING OF THE TREATY

On the afternoon of 6 March 2018, at the United Nations Headquarters in New York, in the presence of the UN Secretary-General, Timor-Leste and Australia signed the historic Maritime Boundary Treaty.

Minister Agio Pereira, as the Agent in the Conciliation, signed the Treaty on behalf of Timor-Leste and Foreign Minister Julie Bishop signed on behalf of Australia. The signing ceremony took place in front of hundreds of guests. The United Nations Under Secretary-General for Legal Affairs Miguel de Serpa Soares, as Master of Ceremonies, invited Minister Pereira and Minister Bishop to deliver official remarks, followed by Secretary-General António Guterres, and the Chair of the Conciliation Commission Ambassador Peter Taksøe-Jensen. All dignitaries remarked on the significance of the occasion and the magnitude of the achievement of Timor-Leste and Australia in reaching a comprehensive agreement on maritime boundaries.

Media from around the world gathered in the UN gallery to capture the historic event. Minister Pereira and Minister Bishop held a joint press conference, fielding questions on the impact and implications of the Treaty for both countries.

On 9 May 2018, the Conciliation Commission published and delivered to the UN Secretary-General its final report, outlining in detail the conciliation process and outcomes.

The signing of the Treaty had brought the compulsory conciliation process to a successful conclusion.





*“This ceremony demonstrates the strength of international law and the effectiveness of resolving disputes through peaceful means... I trust that your example will inspire other States to consider conciliation as a viable alternative for dispute settlement under the Convention.”*

United Nations Secretary-General António Guterres, 6 March 2018, New York



## 7.4 ENTRY INTO FORCE OF THE TREATY

Following the historic conclusion of the compulsory conciliation process with the signing of the Treaty at the United Nations Headquarters in New York, in the presence of the United Nations Secretary-General, H.E. António Guterres, on 6 March 2018, Timor-Leste and Australia initiated their respective national process to enable the Treaty to enter into force.

Annex D of the Treaty provides transitional provisions pertaining to the Buffalo oil block which was previously managed by Australia and the oil and gas fields in the former Joint Petroleum Development Area which is now situated within the continental shelf boundary of Timor-Leste. These provisions required the two countries to conclude the transitional arrangements, including amendment and revision of domestic legislation, to ensure alignment with the terms of the Treaty prior to its entry into force.

Following a series of discussions and the completion of their respective national processes, Timor-Leste and Australia concluded their ratification procedures on 30 August 2019. This was marked by the exchange of notes of the instrument of ratification by the Prime Minister of Timor-Leste, H.E. Taur Matan Ruak, and the Prime Minister of Australia, the Hon. Scott Morrison MP, at the Government Palace of Timor-Leste. This date is of particular significance for Timor-Leste, marking the 20th anniversary of the Popular Consultation, through which the Timorese people exercised their right to self-determination.

The entry into force of the Treaty enables Timor-Leste to exercise comprehensive and effective sovereign rights over its maritime areas in the Timor Sea. These rights include the capacity to derive financial benefits from the exploitation of oil and gas resources, which will contribute to the advancement of Timor-Leste's socio-economic development.

The Treaty further serves to reinforce and strengthen the bilateral relations between Timor-Leste and Australia. It also provides the two countries with a clear framework within which to conduct maritime cooperation.







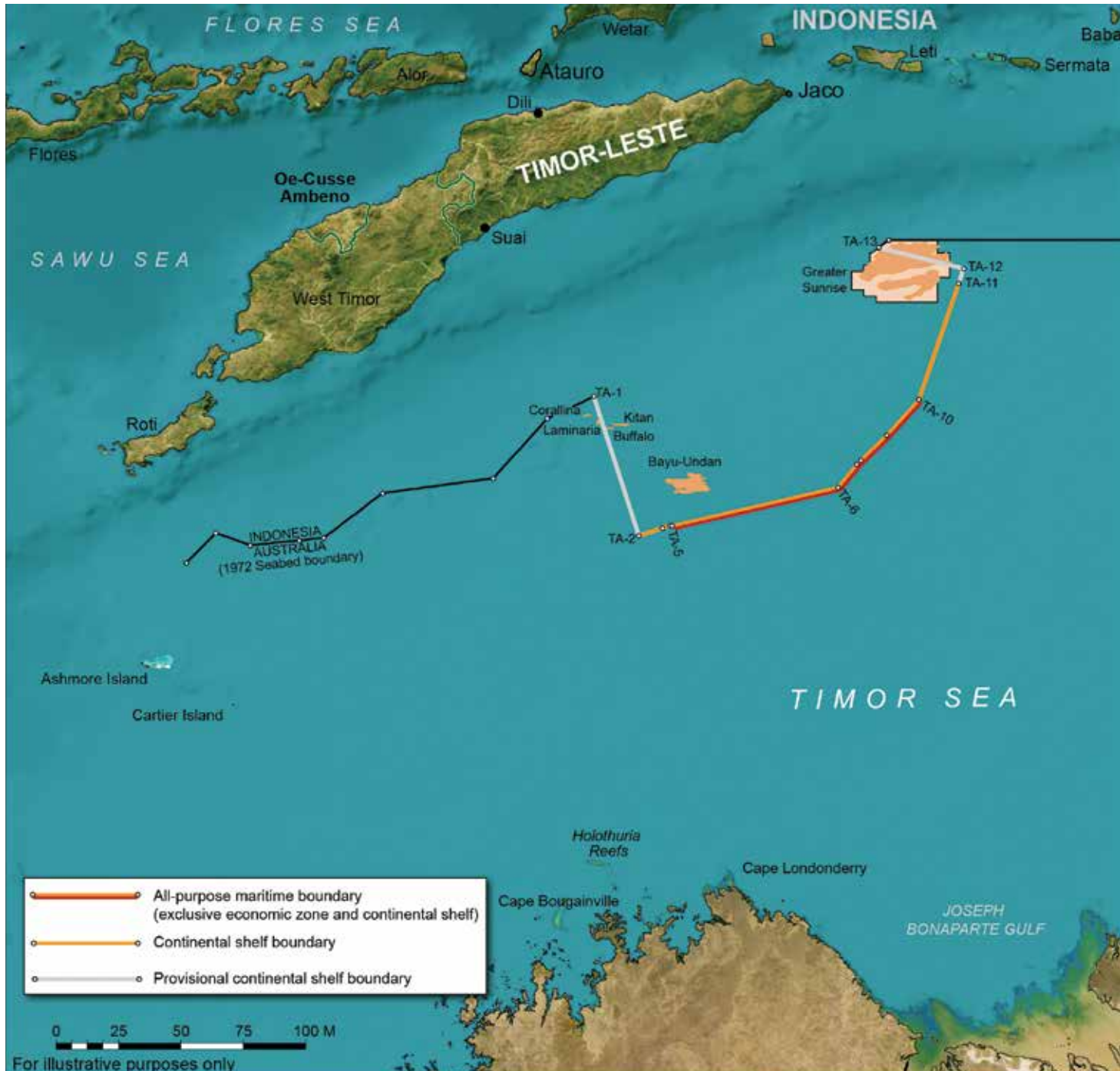


8.

## THE MEANING OF THE MARITIME BOUNDARY TREATY







Map 6: Maritime Boundary Agreement between Timor-Leste and Australia



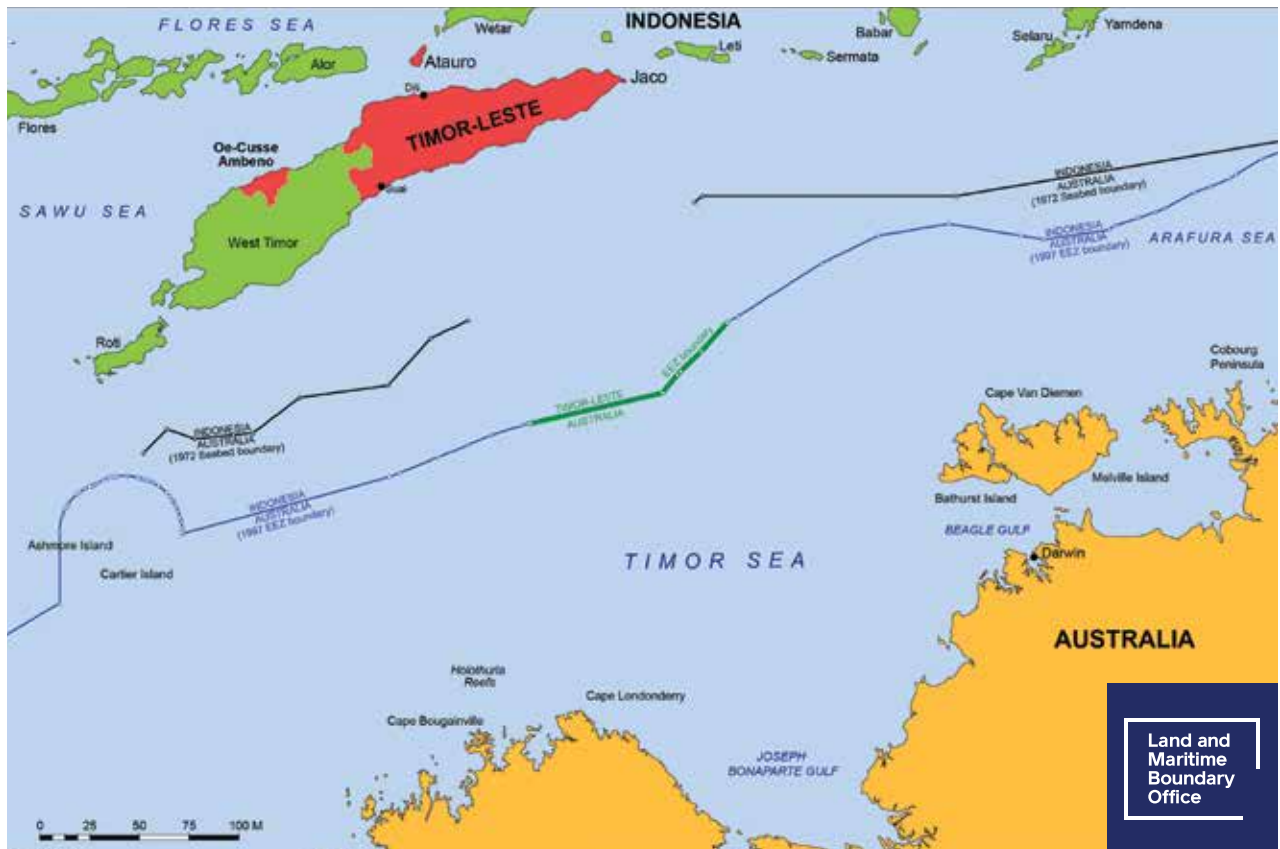


The 2018 Maritime Boundary Treaty between Timor-Leste and Australia is in many ways extraordinary. Firstly, it was settled through the first-ever compulsory conciliation process under the United Nations Convention on the Law of the Sea. Secondly, the Parties managed to overcome a long, complicated and difficult history to close the 'Timor Gap' and reach agreement on permanent maritime boundaries. That was possible by setting aside the controversial issue of ownership over Greater Sunrise by drawing provisional boundaries that will adjust after the field is fully depleted. Thirdly, the agreement established a special regime over Greater Sunrise, to allow for joint management and development of the field and distribution of the large majority of the revenues to Timor-Leste.

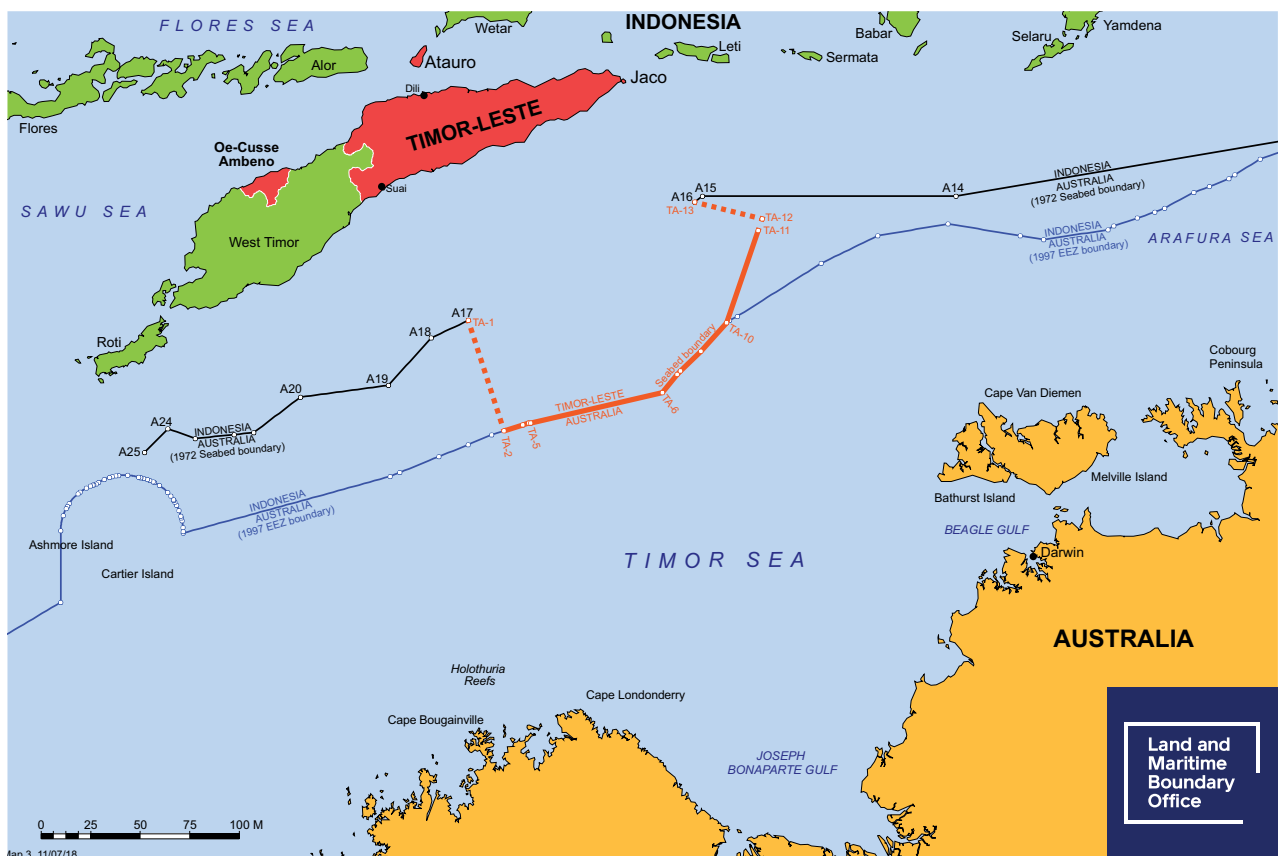
This chapter presents a summary of the content of the Treaty in simple terms. The next chapter addresses the significance and implications of this landmark agreement for Timor-Leste and the wider international community.

## KEY TERMS OF THE TREATY: IN SUMMARY

<b>Preamble</b>	The Treaty opens with introductory clauses, which set out the Parties' high-level objectives and principles that guided them in reaching the agreement. In particular, the preamble refers to the United Nations Convention on the Law of the Sea and expresses that the Parties intend to delimit their maritime areas in the Timor Sea and also, in this context, to establish a special regime for Greater Sunrise for the benefit of both Parties. The preamble also acknowledges the importance of promoting Timor-Leste's economic development.					
<b>MARITIME BOUNDARIES</b>						
<b>All-Purpose</b>	The Maritime Boundary Treaty secures a median line in the Timor Sea, with only a slight adjustment to achieve an equitable result as required by international law. Most of the median line is 'all purpose', meaning it encompasses both the 'continental shelf' (which entails rights to explore and exploit seabed resources, such as petroleum) and the 'exclusive economic zone' (which entails rights to exploit resources in the water column, such as fisheries).					
<b>Exclusive Economic Zone Boundary</b>	<p>The exclusive economic zone (water column) boundary is shorter than the continental shelf (seabed) boundary, to take into account the potential entitlements of other States, in accordance with international law. In particular, Indonesia has potential claims to an exclusive economic zone in the areas just outside the former JPDA, which will be the subject of future negotiations between Timor-Leste and Indonesia.</p> <p>The exclusive economic zone boundary with Australia may be extended based on the outcome of negotiations with Indonesia.</p>					
<b>Continental Shelf (Seabed) Boundary</b>	The 1972 Australia/Indonesia Seabed Agreement has the effect that Australia and Timor-Leste are free to bilaterally negotiate over the seabed area to the south of that boundary. As a result, the seabed boundary delimited in the Treaty extends further to the east and west.					
<b>Provisional Boundaries</b>	<p>Part of the seabed boundary is provisional, in the sense that it is subject to automatic adjustment if certain events occur, namely:</p> <table><tr><td><ul style="list-style-type: none"><li>• In the west, the depletion of the Laminaria and Corallina fields, <i>and</i> the entry into force of a seabed agreement between Timor-Leste and Indonesia.</li></ul></td><td><ul style="list-style-type: none"><li>• In the east, the depletion of the Greater Sunrise field, <i>and</i> the entry into force of a seabed agreement between Timor-Leste and Indonesia.</li></ul></td></tr></table> <p>At that time, if required, the boundary will adjust automatically as follows:</p> <table><tr><td><ul style="list-style-type: none"><li>• In the west, it may swing westward from point TA-2 to meet with the future Timor-Leste/Indonesia seabed boundary at the Australia/Indonesia 1972 Treaty line, but no further west than point A18.</li></ul></td><td><ul style="list-style-type: none"><li>• In the east, it may swing eastward from point TA-11 to meet with the future Timor-Leste/Indonesia seabed boundary at the Australia/Indonesia 1972 Treaty line.</li></ul></td></tr></table> <p>This arrangement allows for the seabed boundaries between Timor-Leste and Australia to meet points agreed in the upcoming negotiations with Indonesia. This means that, depending on the outcome of negotiations with Indonesia, Timor-Leste could look to extend its maritime area even further.</p> <p>The future joint development of Greater Sunrise and Australia's current exploitation of Laminaria and Corallina will not be affected, as the fields must be fully depleted before the boundary adjusts.</p> <p>Although the Treaty includes both permanent and provisional boundary lines, it is important to note that the Treaty represents a complete resolution of Timor-Leste's seabed boundaries with Australia. No further negotiation is needed, as the provisional boundaries adjust automatically under the Treaty terms.</p>		<ul style="list-style-type: none"><li>• In the west, the depletion of the Laminaria and Corallina fields, <i>and</i> the entry into force of a seabed agreement between Timor-Leste and Indonesia.</li></ul>	<ul style="list-style-type: none"><li>• In the east, the depletion of the Greater Sunrise field, <i>and</i> the entry into force of a seabed agreement between Timor-Leste and Indonesia.</li></ul>	<ul style="list-style-type: none"><li>• In the west, it may swing westward from point TA-2 to meet with the future Timor-Leste/Indonesia seabed boundary at the Australia/Indonesia 1972 Treaty line, but no further west than point A18.</li></ul>	<ul style="list-style-type: none"><li>• In the east, it may swing eastward from point TA-11 to meet with the future Timor-Leste/Indonesia seabed boundary at the Australia/Indonesia 1972 Treaty line.</li></ul>
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Map 7: Exclusive economic zone boundary



Map 8: Continental shelf (seabed) boundary



## OTHER KEY CLAUSES

<b>Rights of Other States</b>	It is an important principle of international law that bilateral treaties must not affect the rights of third party States. The Treaty includes a 'without prejudice' clause, which provides that nothing in the current Treaty shall be interpreted as prejudicing negotiations with other States with regard to maritime delimitation. This provision signals to neighbouring States, notably Indonesia, that the bilateral treaty between Timor-Leste and Australia will not affect their rights or potential claims in the Timor Sea under international law.
<b>Previous Agreements</b>	<p>The Treaty provides that the two previous provisional resource-sharing arrangements, namely the Timor Sea Treaty and Sunrise Unitisation Agreement, will terminate automatically upon the Treaty's entry into force. The other treaty establishing provisional arrangements, CMATS, was terminated before the negotiations began in the conciliation.</p> <p>Once the new Treaty enters into force, it will fully govern the relations between the two States in the Timor Sea. An Exchange of Notes with Australia dated 7 April 2017 confirms that there are no surviving obligations from this previous treaty regime.</p> <p>The only exception is the obligation to maintain "<i>conditions equivalent</i>" for the contractors currently operating in the Joint Petroleum Development Area, so that their existing rights continue to be protected.</p>
<b>Permanence of the Treaty</b>	<p>Maritime boundary treaties have a special nature: they are permanent and irrevocable as they fix lasting, stable boundaries. As such, they are generally not subject to any unilateral right of denunciation, withdrawal or suspension. Unlike CMATS, there is no right to terminate the Treaty if one Party wishes, so the boundaries established by the Treaty are permanent.</p> <p>Further, the Treaty specifies that all of its provisions, including the Annexes, are "<i>inextricably linked and form a single whole</i>".</p>
<b>Settlement of Disputes</b>	<p>The Treaty provides for two forms of dispute settlement for disputes concerning the interpretation or application of the Treaty, which cannot be settled by negotiation within 6 months:</p> <p>(i) Within the first 5 years after the Treaty enters into force, and if the Parties agree, one or more of the members of the Conciliation Commission can be asked to assist the Parties with resolving the dispute; or</p> <p>(ii) Either Party can submit a dispute to binding arbitration, with some important exceptions (in particular, the maritime boundary provisions are not subject to arbitration, in order to reflect their permanence and stability).</p>
<b>Transitional Arrangements</b>	<p>The agreed seabed boundary puts all of the known resource fields in the former Joint Petroleum Development Area (JPDA) within Timor-Leste's continental shelf. This means that title to all future revenue from the Bayu-Undan and Kitan fields will be transferred to Timor-Leste. The new contracts must ensure the stability of regulatory arrangements and the continuance of fiscal regimes based on "<i>conditions equivalent</i>", consistent with the previous arrangements.</p> <p>The Buffalo oil field will also be on Timor-Leste's continental shelf, and all future revenue will be transferred to Timor-Leste. Timor-Leste needs to enter into a Production Sharing Contract with the titleholder to replace the Australian exploration permit over that area.</p> <p>Transitional arrangements are required for these fields to provide a stable framework for the existing operations and ensure that the current rights of petroleum companies in the Timor Sea are respected.</p>

## GREATER SUNRISE SPECIAL REGIME

### Objective

Under the Treaty, the Greater Sunrise resource is shared by Timor-Leste and Australia, with most of the resource located within Timor-Leste's maritime area and most of the revenues flowing to Timor-Leste.

The Treaty establishes a 'Greater Sunrise Special Regime', with the objective of enabling the *"joint development, exploitation and management"* of petroleum from the field for the benefit of both Parties. Annex B to the Treaty sets out the details of this Special Regime.

### Title to Petroleum

Both Timor-Leste and Australia have title to all petroleum produced in the Greater Sunrise field. Upstream revenue is shared as follows:

- If Greater Sunrise is developed by means of a pipeline to Timor-Leste, 70% of upstream revenue will go to Timor-Leste, and 30% to Australia; or
- If it is developed by means of a pipeline to Australia, 80% will go to Timor-Leste, and 20% to Australia, to account for the downstream operations and broader economic benefits that would go to Australia in that scenario.

The differing revenue split is in recognition of the substantial economic benefits that Australia gains from the use of the pipeline to, and LNG plant in, Darwin. These wider benefits include the jobs, economic growth, activity and investment that would flow from the downstream operations, for example, in the areas of infrastructure development and hospitality.

### Taxation

Tax is applied by each Party in accordance with their respective laws. The application of the Parties' taxation laws will be set out in the fiscal regime, which is to be agreed with the Greater Sunrise contractors in a separate trilateral framework agreement.

Taxation must be applied consistent with the obligation to provide *"conditions equivalent"* under the previous arrangements.

### Greater Sunrise Contract

The previous contracts and leases granted in relation to developing Greater Sunrise under the previous regime will be replaced by a single, comprehensive Greater Sunrise Production Sharing Contract. This new contract will need to have *"conditions equivalent"* to respect the rights granted to contractors under the past regime.

A production sharing contract is a common form of agreement between government(s) and oil and gas companies, granting certain rights and setting obligations in relation to the development of a resource.



Map 9: Greater Sunrise Special Regime Area

## Regulatory Structure

The Treaty creates a two-tiered regulatory structure for the regulation and administration of the Greater Sunrise Special Regime, consisting of a Designated Authority and a Governance Board.

As under the existing regime, the Timor-Leste National Authority for Petroleum and Minerals (**ANPM**) will serve as the **Designated Authority** on behalf of both Parties.

The **Governance Board** is a strategic oversight body, comprised of three sovereign representatives – two appointed by Timor-Leste and one appointed by Australia. It has limited powers and has decision-making authority over critical strategic issues, but otherwise cannot interfere in the day-to-day regulatory functions of the Designated Authority.

A third body, the **Dispute Resolution Committee**, has no regulatory role, but has decision-making powers in the case of disputes on strategic issues that cannot be resolved at the Governance Board level.

## Development Plan for Greater Sunrise

A Development Plan needs to be approved before petroleum production can commence.

A Development Concept needs to be agreed before the Development Plan is submitted. A 'development concept' is the high-level, sovereign decision made by the States on how the field will be developed, for example, by way of a pipeline to Timor-Leste or a pipeline to Darwin for the processing of gas. The Treaty itself does not set out the process for agreeing on a development concept; this is the subject of ongoing discussions between the Parties and the contractors, outside of the conciliation (see Section 6.2: Greater Sunrise).

The process for approval of the Development Plan is set out in detail in the Treaty. It includes assessment against agreed criteria by the Governance Board, on the recommendations of the Designated Authority. If the Governance Board does not approve it, the issue can be referred to the Dispute Resolution Committee for final decision.

The agreed criteria for the Development Plan include, for example, that the project is commercially and technically viable; that it *"demonstrates a significant contribution to the sustainable economic development of Timor-Leste, including through clear and measurable local content commitments"*; and that *"the Development Plan supports the development policy, objectives and needs of each of the Parties, while at the same time providing a fair return to the Greater Sunrise Contractor"*.

The Governance Board must be satisfied that the Development Plan is consistent with the approved Development Concept, which is based on similar criteria, as set out in the 30 August Comprehensive Package Agreement.



## REGULATORY STRUCTURE UNDER THE TREATY

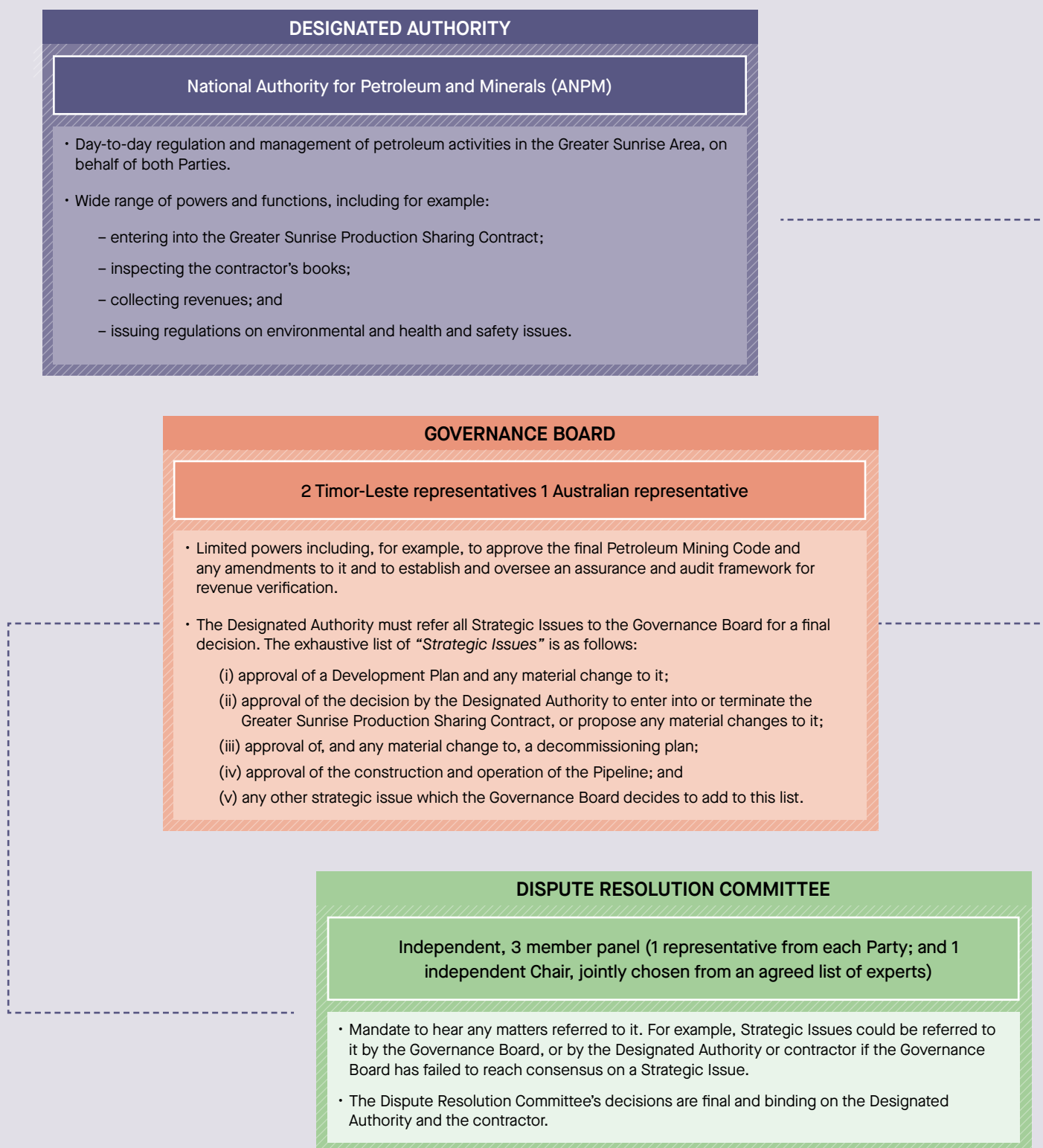


Figure 5: Regulatory structure for the Greater Sunrise Special Regime

<b>Local Content</b>	<p>Local content is a priority issue for Timor-Leste. The Treaty reflects the importance of maximising the benefits that will go to the Timor-Leste people from the development of Greater Sunrise.</p> <p>The Greater Sunrise contractors are required to specify their local content commitments in the Development Plan and decommissioning plan. These commitments must include: employment and training opportunities for Timorese; procurement of goods and services from Timor-Leste in the first instance; and transfer of knowledge, technology and research capability to Timor-Leste. The local content commitments are binding on the contractor.</p>
<b>Decommissioning</b>	<p>Within 7 years of commencement of petroleum production, the Greater Sunrise contractors are required to submit to the Designated Authority a decommissioning plan and total estimate of decommissioning costs.</p> <p>‘Decommissioning’ is required to be undertaken when a resource field has stopped producing oil or gas. The process involves, for example, plugging well-holes in the seabed and potentially dismantling associated production equipment and infrastructure.</p>
<b>Joint Exercise of Rights</b>	<p>Within the Greater Sunrise Area, the States jointly exercise their rights as coastal States pursuant to Article 77 of the Convention. This means that they must work together to exercise their rights and fulfil their obligations under the Convention in a range of areas including: customs and migration, quarantine, environmental protection, health and safety, and criminal jurisdiction.</p>





9.

## THE SIGNIFICANCE OF THE MARITIME BOUNDARY TREATY



# Gabinete Fronteiras Marítimas



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For Timor-Leste, the conclusion of its first Maritime Boundary Treaty is a ground-breaking achievement. In giving recognition to Timor-Leste's rights over its seas, the Treaty marks a decisive step forward in the young nation's struggle towards realising its independence, both political and economic.

The Treaty also signals an end to the long-running dispute between Timor-Leste and Australia, heralding a new era in the relationship between two close neighbours.

Globally, the successful conciliation between Timor-Leste and Australia marks an historic milestone for the settlement of complex maritime disputes in the region and around the world. It has proven the conciliation process is a legitimate approach for small and developing countries dealing with powerful neighbours; giving a voice to the voiceless.





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*“Countries which have disputes about their sea boundaries, or have competing claims about territorial sovereignty, should seriously consider using conciliation to solve their disputes. Unlike arbitration and judicial settlement, conciliation is non-adversarial and the outcome is consensual and win-win.”*

Professor Tommy Koh, former President of the Third United Nations Conference on the Law of the Sea (1981-1982),  
19 September 2017

## 9.1 SECURING SOVEREIGN RIGHTS

The people of Timor-Leste know full well the value of sovereignty and self-determination. Since regaining its Statehood, Timor-Leste prioritised securing its sovereign rights and sought to establish permanent maritime boundaries with its two larger neighbours.

The Timorese people have closely followed the recent history of events in the Timor Sea. Even in Portuguese times, when the first discoveries of oil and gas were made in the seabed immediately south of Timor-Leste, foreign companies and Governments alike sought to claim the riches of the Timor Sea. As the Timorese people grew more aware of their rights under international law, they became more vocal and active in calling for fair maritime boundaries consistent with the modern law of the sea. Responding to the call of the people, achieving permanent maritime boundaries became a national priority.

On 30 August 2017, when the breakthrough agreement on maritime boundaries was announced in Copenhagen, on the historic anniversary of the vote for independence, the significance of that moment was not lost to the Timorese people.

Upon his return from Copenhagen to Dili, Chief Negotiator Xanana Gusmão was welcomed home by thousands parading the streets from the airport to the Government Palace. He stopped to greet the crowds outside the Australian Embassy, gesturing in friendship at the exact spot where, 18 months earlier, thousands of Timorese had protested against the Australian Government's Timor Sea policy.

## 9.2 ADVANCING ECONOMIC DEVELOPMENT

For Timor-Leste, the pursuit of maritime boundaries is not only a critical matter of sovereignty, but it is also vital for the young nation's development and its path to prosperity.

### Oceans-based livelihoods: Fisheries and tourism

Regarded by legend as grandchildren of the crocodile, the Timorese have a special, sacred and symbiotic relationship with the seas that surround the island. Oceans are integral to the Timorese way of life. The seas provide sustenance and livelihoods through fishing and harvesting of marine species. Agriculture, including fisheries, contributes to nearly 94% of the income of the country's subsistence farming communities, who comprise about 85% of the total population.

The marine areas off Timor-Leste's coast host some of the most biodiverse waters in the world. Preserving the marine environment, and particularly the rich biodiversity of the ocean ecosystem, is important for these fishing communities, as well as for the growing tourism sector.

Establishing permanent maritime boundaries will provide certainty for the development of the local fisheries and tourism sectors, and bring confidence to those communities who rely on the oceans for their livelihoods.





### Petroleum development

Petroleum development is of national importance to Timor-Leste and its journey to prosperity. It has been an essential foundation for economic growth and diversification for the young country, as it recovers from the devastating effects of conflict on its economy. While agriculture, tourism and other local sectors continue to grow, resource extraction in the Timor Sea currently contributes the majority of Timor-Leste's Government revenues.

These resource revenues have helped the nation to rebuild its critical infrastructure, including schools and roads, and other public goods and services, through Timor-Leste's sovereign wealth fund. The Petroleum Fund, established in 2005, and based on the Norwegian model, is designed to ensure that the nation's energy resources are managed transparently and sustainably, and that the benefits are shared equitably with all citizens and future generations. This Fund continues to hold nearly \$US16.85 billion (at 31 March 2018), accumulated from operations in the JPDA. Under the long-term vision set in Timor-Leste's Strategic Development Plan 2011-2030 for a sustainable and diversified economy that benefits all Timorese, funding is targeted at strategic sectors for growth, including agriculture and fisheries, tourism, and the national petroleum industry.

The resolution of the dispute with Australia and the establishment of Timor-Leste's maritime zones provide certainty and allow for stability and growth. The settlement of Timor-Leste's maritime boundaries will have a transformational impact on the economy, by unlocking access to resources that previously lay in contested seas, and bringing much-needed revenues through its world-class Petroleum Fund towards the country's continued development.

Under the new Maritime Boundary Treaty, Timor-Leste will gain almost all of the Joint Petroleum Development Area and further seabed areas to the east and west. All future revenue from the current fields in the JPDA, including Bayu-Undan and Kitan, will be transferred to Timor-Leste. Further, the boundary in the west results in the Buffalo petroleum field transferring from Australia to Timor-Leste.

The Greater Sunrise resource will be jointly managed and developed by Timor-Leste and Australia, with the majority sitting in Timor-Leste's maritime area and the majority of upstream revenues flowing to Timor-Leste. Once the development concept for the field (including the location of a gas pipeline and processing plant) has been determined and agreed with the Greater Sunrise contractors, development of the field can begin.

The development of Greater Sunrise holds the promise of bringing further revenues to invest in Timor-Leste's Petroleum Fund, as well as jobs, infrastructure development, and investment into the diversification of the economy.



### 9.3 A NEW CHAPTER IN BILATERAL RELATIONS WITH AUSTRALIA

The resolution of the maritime boundary dispute between Timor-Leste and Australia provides a new foundation for the relationship between the neighbours.

The bonds of friendship between the Timorese and Australian people have always been strong. They have been growing since the Second World War, when Australian soldiers landed in neutral Portuguese Timor with a plan to use the island as a forward base against the Japanese. The Timorese people became critical to the Australian operation, helping the soldiers to navigate the mountains and gain a strategic advantage over enemy troops. Over 40,000 Timorese died before the war came to an end. In the years since, many Australian veterans have supported Timor-Leste, believing they owe the Timorese people a debt of honour.

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*“The treaty is a historic agreement that opens a new chapter in our bilateral relationship.”*

Australian Foreign Minister Julie Bishop, 6 March 2018, New York

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Over the years, the Australian and Timorese people have built close relationships, including through church networks, veterans’ associations, local government and friendship groups. Numerous schools operate exchange programs that see many Australian school children visit the districts of Timor-Leste every year, and hundreds of Timorese young people study at learning institutions across Australia.

Despite these people-to-people links, the differences in Government policy in the Timor Sea have loomed large over the bilateral relationship. The trust and friendship between the two nations has been tried and tested since occupation times when the Australian Government carved up the resources of the Timor Sea with Indonesia, to the scandals of recent history, when Australian security officials were accused of espionage relating to Timor Sea negotiations and raiding the offices of Timor-Leste’s legal advisers.

Remarkably, the conciliation process has lifted a shadow over the bilateral relationship. This achievement has also fostered a transformation in the relations between the two States, helping both countries to move on from the past and look forward to a future of restored friendship and cooperation.



## 9.4 AN EXAMPLE FOR THE WORLD

Rising geopolitical tensions in the region and around the world underscore how the peaceful resolution of maritime disputes is critical, but sometimes seems impossible to achieve. There remain over 400 unresolved maritime boundaries around the world. Some of these disputes are in a similar position to where Timor-Leste stood before it commenced the conciliation: deadlocked due to long-standing differences that obstruct effective negotiation, and with no option to submit the dispute to a binding settlement mechanism.

The conciliation between Timor-Leste and Australia has paved a new way forward for States in that unfortunate bind.

The successful resolution of this long-running and complex dispute, tracing back to conflicts over resources in the 1960s and escalating in the years since Timor-Leste's restored independence, was achieved against the odds. It was not a simple matter of drawing a line under international law, but required the navigation of sensitive political, diplomatic and economic issues, and dismantling historical tensions. Nations around the world watched closely to see whether Timor-Leste and Australia could work through their differences in the Timor Sea, giving hope for other seemingly intractable disputes.

The conciliation ultimately achieved a peaceful and comprehensive resolution to the Timor Sea dispute, within an expeditious timeframe.

Most maritime disputes take considerable time and resources to resolve, even in circumstances that are not complicated by the presence of oil and gas reserves in the contested area. Disputes often take between 5 to 10 years, and in some cases, span several decades. The conciliation process under the Convention on the Law of the Sea sets an ambitious timeframe of around 12 months to attempt an amicable settlement.

Through this innovative, adaptable process, Timor-Leste and Australia managed to overcome their entrenched, polar-opposite positions and reach a comprehensive agreement within about nine months of structured negotiations. Once the Commission had established its competence, the total process took no more than 18 months from impassable deadlock until the Maritime Boundary Treaty was signed at a UN ceremony in New York.

The successful end to the conciliation process with the signing of a Maritime Boundary Treaty marks an historic milestone for the peaceful resolution of complex maritime disputes through the international system.

*“The Agreement being signed today is a further contribution to establishing legal certainty in the world’s oceans, an essential condition for stable relations, peace and security, and the achievement of sustainable development... I hope that its successful implementation will inspire other States to follow in your footsteps.”*

United Nations Secretary-General António Guterres, 6 March 2018, New York



### The United States' National Defence Authorisation Act (2018)

This Act (key legislation that outlines the United States' top defence priorities) contains a reference to the maritime boundary dispute between Timor-Leste and Australia:

*"The committee recognizes the strategic importance of the Indo-Asia-Pacific region and has a strong interest in ensuring processes to resolve territorial and maritime disputes are done fairly and peacefully in accordance to international law. Given the growing and complex regional maritime security issues in the Pacific, the committee believes that negotiations between Australia and Timor-Leste to establish permanent maritime boundaries sends a positive signal to other states in the region regarding adherence to a rules-based international order. A mutually agreed upon resolution, could serve as an example for resolving other disputes peacefully and have benefits to cooperative maritime efforts in the region. The committee directs the Secretary of Defense, in coordination with the Secretary of State, to provide a briefing to the House Committee on Armed Services, not later than September 30, 2017, on the potential security benefits that may result from the Australia-Timor-Leste conciliation process and how a peaceful resolution to the dispute might affect overall U.S. defense interests in the region."*



## 9.5 AN ACHIEVEMENT OF THE INTERNATIONAL SYSTEM

The Maritime Boundary Treaty is not only an achievement for Timor-Leste and Australia, but also demonstrates the value of international law, the United Nations system and the international rules-based order.

After the Second World War, as technological advancements led to increasing access to the ocean's resources and States sought control over maritime areas, the international community came together to agree on a multilateral legal framework for governing the seas. The resulting 1982 United Nations Convention on the Law of the Sea became an authoritative source of international law and one of the most widely ratified treaties in history. A major achievement of the Convention is its procedures for ensuring the peaceful resolution of disputes.

*“Compulsory conciliation was an unproven procedure and we were reluctant to be the ‘test case’... We embarked upon the process with no small amount of uncertainty, but also anticipation. This was, but is no longer, uncharted territory.”*

Minister Agio Pereira, 6 March 2018, New York

Timor-Leste and Australia have now tested and proven the potential of the mechanism of compulsory conciliation under Article 298 and Annex V of the Convention. Although it is a non-binding procedure, the conciliation has facilitated a binding and comprehensive outcome in the case of the Timor Sea.

The achievement of the Maritime Boundary Treaty sends an important message to the world: international law and international institutions matter.

Timor-Leste, as a nation founded with the support of the international community, decided to initiate the conciliation process with its larger neighbour to seek its rights under international law. The success of the process will no doubt encourage other small nations to have faith in international law as an equalising force, and embolden them to pursue their rights through the international architecture.

*“We may be a small country, ours may be a small dispute on the global scale, but we believe that this success reinforces the strength of the rules-based international order and [the Convention on the Law of the Sea] as the legal architecture which protects the world’s oceans.”*

Chief Negotiator Xanana Gusmão







# 10. CONCLUSION

**For Timor-Leste, the achievement of permanent maritime boundaries with its neighbour Australia is of profound significance. It represents one of the last and most difficult steps in the nation's journey towards realising full sovereignty.**

The Timorese people's aspiration for self-determination was strengthened during the long struggle for liberation. Through this history, the Timorese learned the importance of securing sovereign rights and being able to freely determine their own future. Access to the seas would be critical to achieving true political and economic independence as a free, stable and democratic sovereign nation.

As a matter close to the hearts of the Timorese people, the pursuit of permanent maritime boundaries became the top national priority.

For the first 14 years since independence, Timor-Leste's neighbour to the south was not so forthcoming. As Timor-Leste navigated the challenges of becoming a new State and recovering from the destruction of war, Australia was willing to engage on temporary arrangements to share the resources in the Timor Sea. However, the prospect of an agreement on permanent maritime boundaries seemed impossible.

The people of Timor-Leste did not give up hope. The bold decision to commence compulsory conciliation under the United Nations Convention on the Law of the Sea was underwritten by the unfailing resolve of the Timorese to pursue their sovereign rights, and their faith that the international system would produce a fair result.

The success of the conciliation stands as a testament to the determination of the people of Timor-Leste, who took the chance of testing a procedure that had never been used before. The result is not only significant for the two neighbours across the Timor Sea, but no doubt will show the way for other countries around the world to break through complex disputes using the creative and innovative means provided for in the Convention. The resolution to this dispute also gives confidence to Timor-Leste in moving forward with its other neighbour, Indonesia, on maritime boundaries.

While the journey has been long and trying, the achievement of a Maritime Boundary Treaty has brought pride to the young country of Timor-Leste and hope for its future. The new Treaty setting permanent maritime boundaries with Australia sets a strong foundation for Timor-Leste to build on its prosperity. With fair and stable maritime boundaries, Timor-Leste can now move with confidence to realise the potential of its seas and the promise of its independence.





## APPENDIX 1: KEY DATES IN THE CONCILIATION PROCESS<sup>1</sup>

DATE	EVENT
<b>11 April 2016</b>	Timor-Leste initiates Compulsory Conciliation under the United Nations Convention on the Law of the Sea
<b>2 May 2016</b>	Australia responds, noting that it will dispute the competence of the Conciliation Commission (Australia reiterates this position on 27 June 2016)
<b>27 June 2016</b>	The Conciliation Commission is formally constituted, consisting of: Ambassador Peter Taksøe-Jensen (Chair), Dr Rosalie Balkin (Australia), Judge Abdul Koroma (Sierra Leone), Professor Donald McRae (New Zealand/Canada), and Judge Rüdiger Wolfrum (Germany)
<b>28 July 2016</b>	Meeting between the Parties and Commission to discuss procedural matters and adopt rules of procedure at The Hague
<b>29 to 31 August 2016</b>	Public hearing, televised live, followed by closed hearings regarding competence
<b>19 September 2016</b>	Commission's decision on competence
<b>10 to 13 October 2016</b>	Confidential conciliation meeting in Singapore
<b>9 January 2017</b>	Trilateral statement on confidence-building measures (including CMATS termination to take effect from 10 April 2017) released by the Commission and Parties
<b>16 to 20 January 2017</b>	Confidential conciliation meeting in Singapore
<b>24 January 2017</b>	Second trilateral statement confirming progress on the confidence-building measures (including Timor-Leste withdrawing related proceedings)
<b>27 to 31 March 2017</b>	Confidential conciliation meeting in Washington, D.C.
<b>5 to 9 June 2017</b>	Confidential conciliation meeting in Copenhagen
<b>24 to 28 July 2017</b>	Confidential conciliation meeting in Singapore
<b>28 August to 1 September 2017</b>	Confidential conciliation meeting in Copenhagen
<b>30 August 2017</b>	Comprehensive Package Agreement reached; breakthrough on central elements of a maritime boundary
<b>9 to 13 October 2017</b>	Confidential conciliation meeting at The Hague to finalise and initial the text of the draft treaty
<b>7 to 8 November 2017</b>	Trilateral meeting between Parties and Greater Sunrise contractors in Brisbane
<b>16 to 20 November 2017</b>	Confidential conciliation meeting and trilateral meeting between Parties and Greater Sunrise contractors in Singapore
<b>4 to 6 December 2017</b>	Trilateral meeting between Parties and Greater Sunrise contractors in Melbourne
<b>11 to 14 December 2017</b>	Confidential conciliation meeting and trilateral meetings between Parties and Greater Sunrise contractors in Singapore

1. For a more detailed timeline of key historical events leading up to the Conciliation, see pages 16 to 23 of Timor-Leste's Policy Paper: [http://www.gfm.tl/wp-content/uploads/2016/09/Policy-Paper\\_English.pdf](http://www.gfm.tl/wp-content/uploads/2016/09/Policy-Paper_English.pdf).



DATE	EVENT
<b>29 January to 2 February 2018</b>	Confidential conciliation meeting and trilateral meetings between Parties and Greater Sunrise contractors in Sydney
<b>19 to 23 February 2018</b>	Confidential conciliation meeting and trilateral meetings between Parties and Greater Sunrise contractors in Kuala Lumpur
<b>6 March 2018</b>	Treaty signing at the United Nations in New York
<b>9 May 2018</b>	Commission releases its final report in accordance with the terms of the Convention
<b>2018</b>	Parties expected to ratify the Treaty in accordance with domestic procedures



## APPENDIX 2: LIST OF MAPS AND FIGURES

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### MAPS

*Map 1: Timor-Leste's regional geography*

*Map 2: The Timor Gap*

*Map 3: The resources and geomorphology of the Timor Sea*

*Map 4: Australia's maritime zones with other neighbours*

*Map 5: Resources in the Timor Sea*

*Map 6: Maritime Boundary Agreement between Timor-Leste and Australia*

*Map 7: Exclusive economic zone boundary*

*Map 8: Continental shelf (seabed) boundary*

*Map 9: Greater Sunrise Special Regime Area*

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### FIGURES

*Figure 1: Stages of the compulsory conciliation process*

*Figure 2: Maritime zones under international law*

*Figure 3: Three-stage approach*

*Figure 4: Conciliation meetings*

*Figure 5: Regulatory structure for the Greater Sunrise Special Regime*



## APPENDIX 3: FURTHER RESOURCES

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### TREATIES

***Treaty between the Democratic Republic of Timor-Leste and Australia Establishing their Maritime Boundaries in the Timor Sea (2018)***  
[https://www.gftm.gov.tl/wp-content/uploads/2021/01/Eng-Timor-Sea-Maritime-Boundary-Treaty\\_English.pdf](https://www.gftm.gov.tl/wp-content/uploads/2021/01/Eng-Timor-Sea-Maritime-Boundary-Treaty_English.pdf)

***United Nations Conventions on the Law of the Sea (1982)***  
[https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

***Seabed Boundary Agreement between Australia and Indonesia (1972)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/1972-Maritime-Boundary.pdf>

***Timor Gap Treaty between Australia and Indonesia (1989) (not in force)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/Timor-Gap-Treaty-reduced-size.pdf>

***Exclusive Economic Zone Agreement between Australia and Indonesia (1997) (signed but not ratified)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/1997-EEZ-Agreement.pdf>

***Timor Sea Treaty between Australia and Timor-Leste (2002)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/Timor-Sea-Treaty-TL-version.pdf>

***International Unitisation Agreement between Australia and Timor-Leste (2003)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/IUA.pdf>

***Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS) between Australia and Timor-Leste (2006)***  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/CMATS.pdf>





## APPENDIX 3: FURTHER RESOURCES (CONT.)

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### TIMOR-LESTE GOVERNMENT RESOURCES

**Land and Maritime Boundary Office**  
[www.gftm.gov.tl](http://www.gftm.gov.tl)

**Maritime Boundary Treaty Fact Sheet**  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/FACT-SHEET-MARCH-2018.pdf>

**Treaty Map Fact Sheet**  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/FACT-SHEET-MARCH-20181.pdf>

**Minister Agio Pereira's Remarks for Treaty Signing Ceremony, 6 March 2018, United Nations Headquarters, New York**  
<https://www.gftm.gov.tl/wp-content/uploads/2021/01/Speech-Minister-Agio-UN-6-Mar-2018.pdf>

**Government of Timor-Leste**  
<https://timor-leste.gov.tl/?lang=en>

**TIMOR GAP, E.P.**  
<https://www.timorgap.com/>

**National Petroleum Authority**  
<http://www.anpm.tl/>

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### OTHER USEFUL RESOURCES

**Permanent Court of Arbitration**  
<https://www.pcacases.com/web/>

**Maritime Boundary Treaty Signing Ceremony video**  
<https://files.pca-cpa.org/SigningCeremony.mp4>

**Report and Recommendations of the Compulsory Conciliation Commission between Timor-Leste and Australia**  
<https://www.pcacases.com/web/sendAttach/2327>

**Compulsory Conciliation Commission Decision on Competence**  
<https://www.pcacases.com/web/sendAttach/1921>

**United Nations Division for Ocean Affairs and the Law of the Sea**  
<http://www.un.org/Depts/los/index.htm>

**International Tribunal for the Law of the Sea**  
<https://www.itlos.org/en/top/home>

**United Nations Secretary-General António Guterres Remarks for Treaty Signing Ceremony, 6 March, 2018, United Nations Headquarters, New York**  
<https://www.un.org/sg/en/content/sg/statement/2018-03-06/secretary-generals-remarks-signing-ceremony-new-maritime-boundary>



#### ABOUT THE LAND AND MARITIME BOUNDARY OFFICE

The Maritime Boundary Office was established in April 2015 to support Timor-Leste's pursuit of maritime boundaries with Australia and Indonesia. Following the successful finalisation of maritime boundaries with Australia, the Office is now focused on negotiating maritime boundaries with Indonesia. In December 2023, its mandate was expanded to include supporting the finalisation of land boundaries with Indonesia, leading to its renaming as the Land and Maritime Boundary Office (LMBO). Additionally, the LMBO has been tasked with assisting the Prime Minister in the development and promotion of Timor-Leste's Blue Economy. For more information on the LMBO, see [www.gftm.gov.tl](http://www.gftm.gov.tl)



**Land and  
Maritime  
Boundary  
Office**

**Land and Maritime Boundary Office**

Government of the Democratic

Republic of Timor-Leste

[www.gftm.gov.tl](http://www.gftm.gov.tl)

[info@gftm.gov.tl](mailto:info@gftm.gov.tl)

+670 7742 5544

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