

## **TIMOR LESTE AND AUSTRALIA HISTORIC AGREEMENT ON MARITIME BORDERS IN TIMOR SEA**

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### **Abstract**

Maritime borders are an important issue for every country to protect including each territorial waters wealth. The issue of Timor Leste and Australia has become a big issue in the history of the International Court of Justice regarding the agreement of maritime boundaries in the Timor Sea. In this study, the author uses normative juridical research to discuss the Timor Sea agreement as the result between Timor Leste and Australia's boundary about maritime borders and how Timor Leste gets 90% and Australia gets 10% of the total exploitation of oil and gas. This study also uses library research to complete the data. Both countries Timor Leste and Australia areas are beyond the authority of the authors. This analysis from the authors provides qualitative for future analysis or research.

**Keywords:** Maritime, Australia, Timor Leste, Timor Sea.

### **Introduction**

International Relations is a group with a broad trajectory, the existence of relations between nations that give each other strength both in the way of thinking, in acting, and also in the way of life. International Relations also help in terms of security, conflict, and military strength. The case that we take here is about conflicts between countries that occur due to disputes over territorial boundaries. This arises because of issues and differences of opinion if one party violates the interests of another country so this is where international conflicts arise because of disputes between these two countries. The conflict that we take here is the border conflict that occurred between Australia and Timor-Leste in Greater Sunrise (an oil field in the Timor Sea). This conflict occurred in 2002 regarding the ownership rights to the territory and oil gas located in the Timor Sea. At that time, Timor-Leste and Australia did not have a permanent border between the two countries. This conflict has been going on for a long time because of differences of opinion between the two countries so the government of Timor-Leste conducts joint negotiations with Australia to divide legal maritime boundaries according to the applicable law of the sea. The Timor Leste conflict also occurred with Indonesia and Australia related to rejecting claims from Australia for having taken the Timor Sea, so that on December 11, 1991, an agreement was made on the continental shelf in the Timor Sea and the Cooperation Zone for oil revenues. However, now that Timor-Leste is no longer part of Indonesia, the provisions that have been made are no longer valid. So long story short, in October 2002 Timor Leste ratified its continental shelf in the law of the sea by determining the 200-mile EEZ. From this it can be understood that the determination of maritime boundaries for each country is very important so that each country can guarantee

the certainty of its jurisdiction so that there are no longer conflicts between countries related to the proper borders. This boundary belongs to which country. 6 March 2018 Timor-Leste and Australia have agreed to end this conflict with an agreement signed by the two Timor-Leste countries with Australia to apply maritime borders in accordance with the United Nations law of the sea convention (UNCLOS). The two countries agreed to enter into a new agreement on Greater Sunrise, the agreement would end the dispute over the Timor Sea between Australia and Timor Leste. This study focuses on explaining about Australia and Timor Leste agreement on maritime borders in the Timor Sea.

Conflicts between countries occur due to disputes over territorial boundaries. This arises because of issues and differences of opinion if one party violates the interests of another country so this is where international conflicts arise because of disputes between these two countries. The conflict that we take here is the border conflict that occurred between Australia and Timor-Leste in Greater Sunrise (an oil field in the Timor Sea).

The Treaty establishes permanent maritime boundaries between Australia and Timor-Leste in the Timor Sea. - The Treaty recognizes both states' sovereign rights and establishes the Greater Sunrise Special Regime for the joint development, exploitation, and management of the Greater Sunrise gas fields. The Treaty includes transitional provisions to provide regulatory certainty and continuity for affected investors in the Timor Sea's oil and gas sector. As with any negotiation, both parties made concessions. The Treaty expressly states that the outcome represents a mutual accommodation that does not prejudice either party's legal position. Both parties, as well as the Conciliation Commission, believe it is a fair and balanced outcome.

While Australia and Timor-Leste signed the Treaty, it will not enter into force until each party has notified the other of the completion of its internal requirements for bringing the Treaty into force. Australia expects any necessary implementing legislation to be in place. Each country has its own procedures for implementing a treaty. The Australian Government intends to complete all necessary steps to bring the Treaty into force as soon as possible. Oil and gas fields in the Joint Petroleum Development Area that are currently shared by Australia and Timor-Leste will be transferred to Timor-sole Leste's jurisdiction. The Treaty guarantees the security of title and any other rights previously held by titleholders under the Timor Sea Treaty and the International Unitisation Agreement by ensuring conditions and terms equivalent.

In the case of the Bayu-Undan and Kitan fields, Australia and Timor-Leste have agreed that the companies holding production-sharing contracts will be subject to the same fiscal and regulatory regimes, albeit under Timor-jurisdiction Leste's rather than joint Australian and Timorese jurisdiction as is the case under existing treaty arrangements. An Exchange of Correspondence outlines this. The Treaty also states that the Buffalo field will be transferred from Australia's exclusive jurisdiction to Timor-exclusive Leste's jurisdiction under conditions that are equivalent to those in the Treaty.

## **Method**

Research can be interpreted as an activity in the scientific family related to rules and also related to methods and also ways to find a study in a structured manner in obtaining information and data that is valid and can be tested for truth through a series of evidentiary processes. This study uses normative juridical research, namely by conducting an assessment of the legal materials that the author uses, which are secondary and primary legal materials

that are relevant in this study related to the country's privacy rights policy in establishing relations with other countries in the international world. The approach method used is a statutory approach to examine juridical studies of the implementation of state privacy rights policies in establishing relations with other countries in the international world and also a case approach to dissect any problems that occur in the right to privacy as happened in Timor Leste and Australia. Then the legal material search technique that the author uses is library research and also through searching through the internet.

## **Result and Discussion**

The case of confiscation of documents that occurred between Timor Leste and Australia relating to documents held by Colliery on behalf of the Government of Timor Leste constitutes a violation of the national security of Timor Leste. The case was settled with Callinan and Cot as ad hoc judges handling cases of confiscation and detention and certain data between Timor Leste and Australia. The complaint relates to the alleged seizure and detention by “Australian agents of East Timorese and/or East Timorese documents, data, and other property protected under international law”. Timor-Leste alleges that Australia has confiscated, in particular, documents relating to pending arbitrations under the 2002 Timor Sea Treaty between Timor-Leste and Australia. Timor Leste's position is based on Article 36 Paragraph (2) of the Statute of the International Court of Justice and also in the Australian Declaration. Whereas in the trial process, Timor Leste has an opinion based on the provisions of Article 41 of the Court Statute and Article 73. The losses will occur in relation to: “both pending arbitration proceedings and concerning other matters relating to the Timor Sea and its resources.”

The statement from Timor Leste states that there is a violation of sovereign rights which is a right to the highest power that a State Government has over its territory. In exercising sovereignty, a state has the right and full jurisdiction over what then happens to its territory. Then, in an international relationship which then crosses a cross-border area, especially diplomatic relations involving two countries, it is an activity that is then legal and legally recognized in international law. This privilege does not mean that the sending country can then do things that are then freely and absolutely within the sovereign territory of the receiving country. One of the violations related to actions that are usually carried out by the sending country in the receiving country is an act of espionage in which a secret collection of information is carried out by a country against another country. Whereas in this study of international law, it is also not justified that there is a process of collecting information against a country or recipient country because it is a violation of the privacy rights of that country. This is of course the right of every country to maintain and secure any data it has from the intervention of outside parties. Every arrival in the receiving country must of course be based on the principle of good faith in the provisions of international law and also any provisions contained in the 1961 Vienna Convention or UN General Assembly Resolutions. This has been explained in Article 2 Paragraph (1) and Article 2 Paragraph (4) of the UN Charter, which states that every UN member state must respect the sovereignty of other countries and also abstain from any actions that threaten state sovereignty. The basis of the judge's decision or the related basis determines the norms for collecting state intelligence based on Article 38 of the ICJ Statute which in this case has a correlation that is the case of confiscation and detention of documents and data between Timor Leste and Australia. ICJ ordered Australia not to intercept communications between Timor Leste and its lawyers during the postponement of the Timor Sea Treaty Arbitration between Australia and Timor Leste, and against future bilateral negotiations relating to maritime boundaries. Then, the

right to privacy is also regulated in UN General Assembly Resolution A/Res/68/167 concerning the right to privacy in the digital era which contains all countries must review all procedures, practices, and also national regulations regarding the surveillance of a document, communication, wiretapping, and also the collection of personal data in terms of upholding the right to privacy under the auspices of human rights. So, in this case, Timor Leste is natural to demand and ask Australia to return all the documents it has taken because they are documents that are considered important and constitute the privacy of the state of Timor Leste.

## **Conclusion**

Australia and Timor Leste have signed a historic agreement on maritime borders in the Timor Sea. The agreement, which was signed at United Nations Headquarters in New York, ended a 10-year dispute over rights to oil and gas reserves in the waters. The historic agreement signed by Australia and Timor Leste applies maritime borders that are in line with the United Nations Convention on the Law of the Sea (UNCLOS). Previously, Australia wanted the border to be at the end of its continental shelf to make the border closer to Timor Leste. Thanks to the agreement, Timor-Leste will practically receive at least 70% of revenues from the largest oil field, Greater Sunrise, which is estimated to be worth US\$40 billion (Rp551 trillion). The Timor Gap dispute that lasted for decades, which was collared by historical complexity, the development of international law of the sea, and the struggle for oil and gas reserves contained therein was finally resolved peacefully and carried out under the UNCLOS mechanism. Determining maritime boundaries in the Timor Sea is an important development for the international community, including Indonesia. For the international community, this settlement marks the first conciliation under UNCLOS which can serve as an example for other countries to resolve maritime boundary disputes. As for Indonesia, this development can open an opportunity to revisit the Australia-Indonesia maritime border which was previously considered to have harmed Indonesia. Indonesia and Australia have maritime boundaries of thousands of kilometres. Re-negotiation of boundaries that have been agreed upon will be a big problem for both countries. Therefore, the DPR needs to ask the government to conduct an in-depth and careful study of this opportunity. It is necessary to consider whether the economic benefits that can be obtained will be proportional to the political costs that must be borne so that it can also be considered whether Indonesia needs to take advantage of the momentum where Australia is putting forward UNCLOS in resolving maritime disputes. This possibility of renegotiation is Australia's concern as a result of the resolution of the Timor Gap dispute.

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