

The Lowy Interpreter (11 February 2016)

Comment to an article by Stephen Grenville, in response to comments by Messrs. Bernard Collaery, Dan Nicholson, and Charles Scheiner

It seems my fellow commentators have overlooked the Treaty signed in 1997 between Australia and Indonesia establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries, although never ratified because of the 1999 political changes. The Treaty established an Indonesian EEZ and water column north of the median line and on each side of what became the JPDA. The median line appears as the EEZ boundary in all Australian government cartographic documents, and also marine charts, in the area of interest.

The 1972 Treaty requires that Indonesia and Australia will cease to claim sovereign rights over the seabed, but the issue here is rather the EEZ or water column above the seabed. It seems to be disconnected logic that a third party should lay claim to an area based on the usual coincidence of seabed and EEZ but then ignore the existing EEZ rights of its neighbour. That is what East Timor is doing by demanding adjustment of the eastern lateral boundary of the JPDA to form its permanent boundary, without paying any regard to what Indonesia undoubtedly considers its own EEZ.

I do believe that an agreement is an agreement. Australia has treaties and agreements in place with two neighbours, Indonesia and East Timor, and while the latter intends to renegotiate its agreements, I doubt that the former would ignore such a diplomatic development. Why would an agreement which East Timor seeks to renegotiate with Australia have more elasticity for change than an agreement made with Indonesia on the same or similar subject matter?

I read the argument by Mr. Collaery that the shape of the island of Timor is rather concave, and I agree. However, one part of the island is hardly any more concave than the other. I must also stress that because there is no rectilinear coastline anywhere in the world, and all geographical bodies are either concave or convex, then some variation of fairness or justice is hardly likely to favor one neighbour over another. As an example, if the coastline was so regularly concave as to be circular, would justice allow that the boundary be anything but a radius, equidistant to both neighbouring arcs?

One of the last comments seems to imply that one of the countries should be advantaged as being a deserving poor (to paraphrase the playwright George

Bernard Shaw), although East Timor's advisors have consistently argued that boundaries should be determined according to geometry only. Beside the fact that it is probably unreasonable to believe that Australia could be coerced into giving away part of its wealth to a poorer neighbour only because he is poorer, couldn't the East Timorese very probable future hardships be more realistically attributed to rather bad governance and a stubborn refusal to have the Sunrise fields developed.

Incidentally, Sunrise and Troubadour hold 5.1 tcf of gas and 225 million barrels of recoverable oil. At the discounted rate of \$6 per million BTU for gas and \$40 per barrel of oil, my calculator returns an overall value of \$40 billion (for reference, in the last quarter Bayu Undan LNG sold for \$7.94 per million BTU and condensate for \$47.73 per barrel).