



**A STUDY OF THE
OFFSHORE PETROLEUM NEGOTIATIONS
BETWEEN AUSTRALIA, THE U.N. AND EAST TIMOR**

Department of International Relations
Research School of Pacific & Asian Studies
Australian National University
Canberra

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I declare that this thesis is the result of my original work and all sources have been acknowledged.

Alexander J. Munton
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ACRONYMS

APODETI – Timorese Popular Democratic Association (Associação Popular Democrática Timorense)

AUD – Australian Dollars

CMATS – Treaty on Certain Maritime Arrangements in the Timor Sea

CNRT – National Council of Timorese Resistance (Conselho Nacional de Resistência Timorense)

DFAT – Department of Foreign Affairs and Trade

DISR – Department of Industry, Science and Resources

DPKO – United Nations Department of Peacekeeping Operations

EEZ – Exclusive Economic Zone

FRETILIN – Revolutionary Front for an Independent East Timor (Frente Revolucionária de Timor Leste Independente)

GDP – Gross Domestic Product

ICJ – International Court of Justice

INTERFET – International Force in East Timor

IUA – International Unitisation Agreement

JPDA – Joint Petroleum Development Area

LNG – Liquefied Natural Gas

LOI – Letter of Intent

LPG – Liquid Petroleum Gas

MoU – Memorandum of Understanding

OLA – United Nations Office of Legal Affairs

PRRT – Petroleum Resource Rent Tax

PSA – Production Sharing Area

PSC – Production Sharing Contract

UDT – Timorese Democratic Union (União Democrática Timorense)

UNTAET – United Nations Transitional Administration for East Timor

ZOC – Zone of Cooperation

ZOCA – Zone of Cooperation, Area ‘A’

PROLOGUE

According to analysts of contemporary international conflict, the struggle for control of valuable natural resources has become an increasingly prominent feature of the global landscape.¹ In the wake of East Timor's transition to independence, in 1999, the Timor Sea became the location of one of the world's major international territorial disputes in areas containing oil and natural gas.² Prior to the dramatic political changes and devastation that took place in East Timor that year, the resources at stake were being managed by Indonesia and Australia under a bilateral treaty of joint petroleum development. During the 1990s, exploration and investment in the Timor Sea had flourished to such an extent that by the end of the decade the region was rapidly emerging as a key commercial centre of offshore oil and gas production. East Timor's transition changed the political future of this resource-rich area. The massive energy reserves of the Timor Sea were considered by the East Timorese to be an important element within their struggle for independence, *viz.*, an intrinsic part of self-determination.³ Over a period of five years, from 2000 to 2005, Australia's and East Timor's conflicting claims to these petroleum resources would come to totally dominate the governments' bilateral relations.

In this thesis, I undertake a detailed investigation of the negotiations to resolve the dispute. The purpose of the research is to answer the basic analytical question of how negotiated outcomes have been determined. Part of the funding for this research has been provided by the Arafura Timor Research Facility (ATRF). This organization, based in Darwin, was established in 2002 as a joint venture between the Australian National University and the Australian Institute of Marine Sciences. The ATRF's mission is to conduct world class scientific research into the coastal and marine ecology of the Arafura and Timor Seas as well as the management of living and non-living resources.⁴ My study was initially intended as an analysis of the problems relating to marine resource management and regional cooperation that naturally arise in enclosed, or semi-enclosed, seas. However, the focus of the research gravitated towards the territorial dispute between Australia and East Timor, which

¹ Klare, M. T. 2001. *Resource Wars; the new landscape of global conflict*, Henry Holt and Co., New York.

² *Ibid.*, p.227-31.

³ In a speech made to the South East Asia Australia Offshore Conference, in Darwin, 8 June 2004, East Timor's Prime Minister, Mari Alkatiri, stated that East Timor's legal and sovereign rights to the resources of the Timor Sea were "an integral part of rights to self-determination".

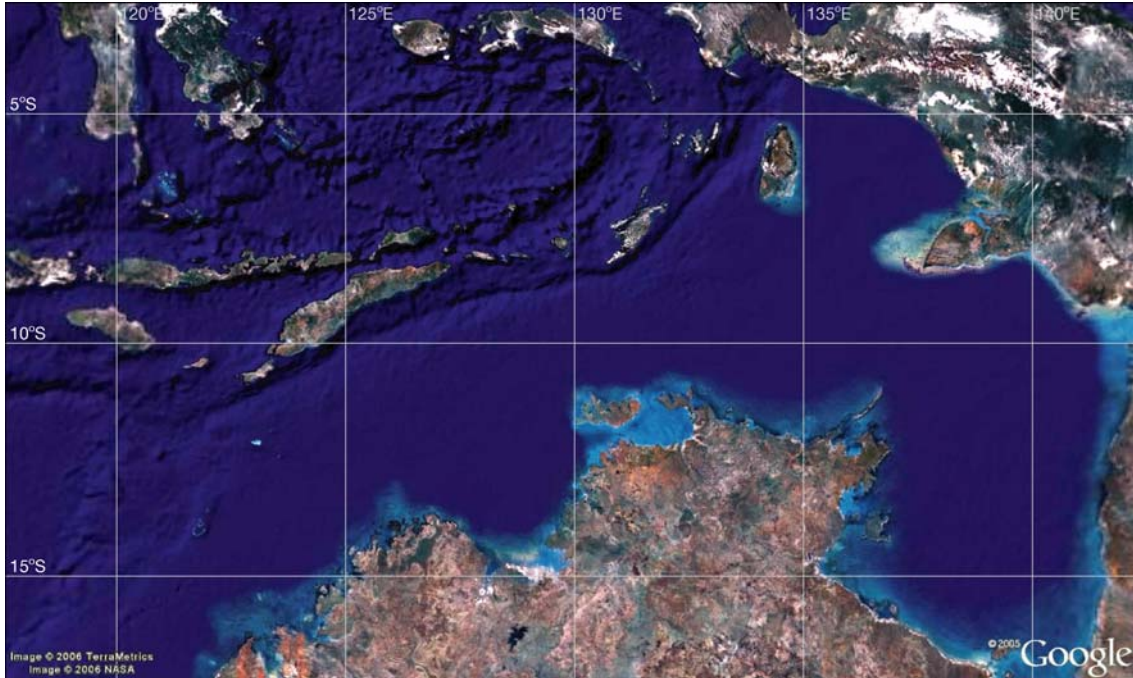
⁴ See Arafura Timor Research Facility website at <http://www.atrf.org.au>

had the effect of almost obliterating everything else actually on the regional agenda.⁵ As a result, this thesis is a study of an acute conflict over offshore oil and gas and the efforts to resolve that conflict through diplomacy.

The story of the negotiations is a remarkable one for the unusually complex range of factors that converged into the core of the bargaining dilemma. These factors are to be found within the unique history to the dispute, the extraordinary political circumstances surrounding the negotiations, the commercial evolution of the Timor Sea, as well as a complex range of legal and commercial issues that the talks encompassed. In 2003, I completed a short internship at the United Nations Division of Ocean Affairs and Law of the Sea (DOALOS), in the Office of Legal Affairs, New York. In spite of the key role played by a small group of UN representatives in the negotiations between Australia and East Timor during the period of transitional administration, there was little awareness outside of this group of how the bargaining process had actually unfolded. The curiosity I encountered during my time in DOALOS, amongst some UN staff, to know what had happened and why certain outcomes had been reached, had a large influence upon my own approach to the research. Confidential records of the negotiations existed, yet no-one had analysed this material and nothing had been written or published that documented the important events which had taken place. In this thesis, I have undertaken to fill that gap – to ensure that the process is not consigned to the ‘shadows of history’. Whilst the emphasis is on the particular story of these negotiations, both the theoretical and empirical content of this thesis contains important insights that are of wider relevance to the study of international negotiation and dispute settlement more broadly. Thus, in seeking to understand and explain the reasons for outcomes within the specific context, the conclusions that are drawn inevitably lead to a broader set of questions concerning conflict and cooperation in the international realm.

⁵ The tendency for disputes over offshore hydrocarbon resources to overshadow other issues on the regional agenda is not uncommon, as noted in Townsend-Gault, I., 1997. *International Boundaries and Environmental Security: frameworks for regional cooperation*, in G. Blake, C. Lia Sien, C. Grundy-Warr, M. Pratt and C. Schofield (eds), Kluwer Law International, London.

THE TIMOR AND ARAFURA SEAS



The Timor and Arafura Seas are enclosed by the maritime jurisdictions of three states: Australia, Indonesia and East Timor. This satellite image shows the landmass that surrounds these waters, with the northern coast of Australia, in the south, and the eastern arc of the Lesser Sunda islands running across the centre to the north. The island of Timor is the centrally positioned and largest of this island chain. The landmass to the east is the Indonesian territory of West Papua on the island of New Guinea. The complex and unusual seabed bathymetry of this region is also visible. The shallow and expansive Sahul shelf that extends off the north coast of Australia is contrasted against the series of deep ocean troughs and submarine depressions which encircle the Lesser Sunda group.

