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**The International Boundaries of East Timor**

*Neil Deeley*



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## **The International Boundaries of East Timor**

by

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The views expressed within this document are those of the author and are not necessarily representative of the views of MOD, or the UK Government.

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<sup>i</sup> This map has been produced by the author, and is based on the map *Annexe du “Resumé des Questions” Présenté par les Délégués Néerlandais*.

<sup>ii</sup> This map has been produced by the author, and is based on the map *Grens Tusschen Ned. en Port. Timor (Beloe-Grens)*, which is taken from Batavia Topografische Inrichting (1924) *Jaarverslag van den Topografischen Dienst in Nederlandsch-Indie over 1923*[*Annual Topographic Service Report for the Dutch East Indies in 1923*], 19<sup>de</sup> Jaargang [19<sup>th</sup> year of publication], Batavia.

<sup>iii</sup> This map has been produced by the author, and is based on the map *Carte de la Limite entre O’Kussi – Ambeno (Portugal) et les Possessions Neerlandais dans L’ile de Timor*.

<sup>iv</sup> This map has been produced by the author, and is based on the map *Division of the continental shelf in the Timor Gap*, which is taken from Krieger, 1997.



# The International Boundaries of East Timor

*Neil Deeley*

## 1. Introduction

East Timor is one of the few remaining territories on the political map of the world that is yet to emerge from its colonial past into the post-colonial era. Having been under Portuguese control for almost three centuries, East Timor was annexed by Indonesia in 1975. Despite the efforts of both the United Nations, which passed a number of resolutions on the issue of East Timor, and Portugal, which referred the matter to the International Court of Justice at The Hague, Indonesia retained control over East Timor for a further quarter of a century. Jakarta finally bowed to international pressure, allowing a referendum on independence to take place in East Timor in 1999. An overwhelming vote in favour of full independence plunged the region into crisis, but has seen the fledgling state of East Timor take its first steps towards full independence, under the auspices of the United Nations.

The purpose of this *Briefing* is to serve as an introduction to the recent crisis on the Island of Timor, and to provide a background to the history of the international boundary between Indonesia and the territorial entity of East Timor. The following sections provide an insight into the relevant historical, geopolitical, legal, resource and functional factors applying to, and at, the boundary between these neighbours, dating back to the period of the Dutch and Portuguese colonists.

The pervading theme of this *Briefing* is the evolution of the land and maritime boundaries of Timor. The land boundary alignment is examined in detail, relative to the recognised treaty materials, according to the current principles of international law and against the best available geographic source materials at a variety of scales. The evolution of the maritime boundary is also examined in some detail, and a number of illustrative figures are included. All of this information is set firmly within the historical context, and a full chronology of key events is provided as an appendix (see Appendix A).

In addition there are sections devoted to an examination of pertinent legal issues and boundary survey information. Finally, a full set of appendices, itemising the relevant international treaties, has been included.

## 2. Geographical Setting

East Timor is comprised of two discrete territorial entities on the Island of Timor, and the small islands of Atauro and Jaco. The largest of these territories is the eastern part of the Island of Timor, which is separated from the Indonesian western part of the island by a boundary line approximately 125km in length. Enclaved within Indonesian West Timor is the East Timorese exclave of Oecussi. This smaller territory is bounded to the north by the Savu Sea, and separated from Indonesia by a boundary of approximately 100km in length (see Figure 1).

The Island is dominated by a series of parallel ridges which rise to a height of some 2,920 metres in East Timor and 2,365 metres in Indonesian West Timor. There are no navigable rivers on the Island, and the majority of rivers and streams cannot sustain an uninterrupted flow during the dry season (May to October). Vegetation on the Island ranges from scrubland and thorny jungle at the northern coast through to the more dense sandalwood and bamboo forests to the south. The central upland area is host to eucalyptus and casuarina.

The Island was colonised by Europeans from the sixteenth century, and became divided between Dutch and Portuguese settlers. The first boundary delimitation occurred between Portugal and The Netherlands in 1859, and was followed by several other agreements, culminating in a final delimitation in 1904. Indonesia became independent from The Netherlands in 1949, whilst East Timor remained under Portuguese rule until it was annexed by Indonesia in 1975. In August 1999, the East Timorese voted for full independence for the state of East Timor, under the auspices of a United Nations sponsored referendum.

### **3. Historical Background**

#### **3.1 Historical Setting<sup>1</sup>**

Early in the sixteenth century, European traders began to take an interest in the spices, resins and fragrant woods of the islands of Southeast Asia. Most active in this region were the Dutch, whose Dutch East Indies Company developed a number of scattered trading posts and forts in order to pursue trade with the natives of the archipelago. The Dutch East Indies Company soon expanded its operations to become involved in plantations, and the basis of a colony began to develop, stretching from Sumatra in the west to New Guinea in the east.

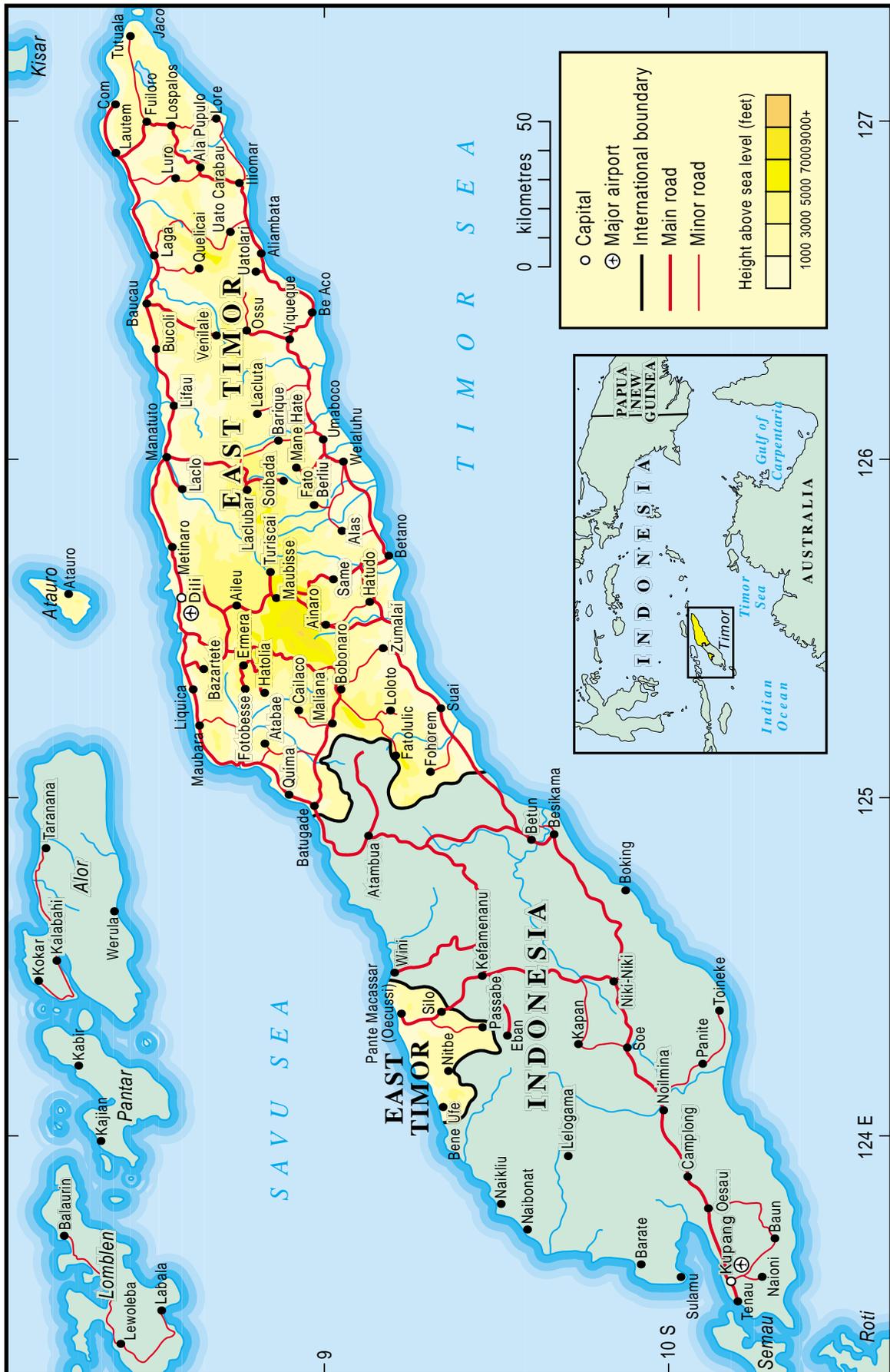
The Portuguese had also established a foothold in Southeast Asia, and its explorers 'discovered' the Island of Timor in 1520 whilst searching for sources of the profitable sandalwood tree. By the seventeenth century, however, the Portuguese Empire had long passed its zenith and it was now in rapid decline. Portugal began its formal colonisation of eastern Timor in 1701. The Dutch had taken over many of the Portuguese possessions in Southeast Asia, and Timor was one of the few remnants that Lisbon had been able to retain. Even here, though, the Portuguese were not to have things completely their own way, with the Dutch colonising the western part of the Island of Timor during the eighteenth century. At this time, the complexities of administration of the expanding Dutch Empire had become too much for the Dutch East Indies Company to handle. Therefore, in 1799, the Dutch East Indies colony was handed over to the control of the Dutch Government.

The Island of Timor was thus divided between the spheres of influence of the two competing Powers, with various local kings and chiefs pledging their allegiance to either the Portuguese or the Dutch. In this way a *de facto* division of territory had occurred. However, in 1859, the two Powers resolved to agree a treaty that would establish the boundary line dividing their dominions, as well as removing some of the territorial anomalies that existed on the Island. A series of treaties, conventions and agreements, along with an arbitration, were to follow, resulting in the delimited and demarcated boundary between Portugal and The Netherlands on the Island of Timor (see Section 3.2).

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<sup>1</sup> See also Chronology, Appendix A.

Figure 1: East Timor



Whilst East Timor developed a strong Portuguese character, West Timor remained relatively unchanged. Roman Catholic priests had a huge influence on life in the Portuguese colony, and almost half of the population were converted to Christianity during the colonial period. This distinguished East Timor from the predominantly Moslem west, where the degree of Europeanisation, and cultural integration with the Dutch, was significantly less.

The Second World War saw the Island of Timor occupied by the Japanese, between 1942-1945, and that event served as a catalyst for independence movements in the Dutch colony. In 1949, the Dutch East Indies, which included the western half of the island of Timor, gained independence as the Republic of Indonesia. However, East Timor remained under Portuguese control, as one of its overseas colonies, and in 1951 became an integral part of Portugal, entitled to representation in the National Assembly.<sup>2</sup> The Portuguese did little to develop their half of the island, exploiting sandalwood for sale to mainland Asia, and concentrating their meagre development efforts on the capital, Dili.

In April 1974, a revolution occurred in Portugal, ending the dictatorship of Marcello Caetano, and the overseas colonies, including Angola, Mozambique and East Timor, were moved rapidly towards decolonisation. East Timor's population became divided between those wishing to pursue continued links with Portugal, those wishing for outright independence, and those seeking integration with Indonesia. The two main factions in this debate had, by 1975, become embroiled in a civil war, the climax of which appeared to be the rise of the left-wing Revolutionary Front for Independence (Fretilin) towards power.<sup>3</sup>

The idea of a neighbouring state ruled by a left-wing liberation movement proved too much for Jakarta to swallow, and in December 1975 Indonesian troops moved into East Timor to seize control. A provisional government was installed, and it promptly requested that East Timor be incorporated into Indonesia. The formal integration took place in August 1976.

Indonesia was immediately condemned by a majority of the member states of the United Nations (UN) for its actions, and specifically for its non-consultation of the people of East Timor. These states supported Fretilin in its setting up of the rival Government of the 'Democratic Republic of East Timor', although the *de facto* incorporation of East Timor into Indonesia was accepted by a steadily growing number of UN member states. Fretilin continued with its guerrilla warfare tactics, but with little impact on the occupying forces. Indonesia moved rapidly towards the full integration of East Timor by developing the infrastructure and communications of their newly acquired province (the 27<sup>th</sup> which they named Loro Sae).

The Portuguese Government, along with a majority of UN member states, refused to recognise Indonesia's claim to sovereignty over East Timor, whilst a minority of states, including Australia and New Zealand, recognised its *de jure* inclusion. The UN Trusteeship Committee, Security Council and General Assembly all passed resolutions condemning Indonesia's actions, and calling for the people of East Timor to be allowed to determine their own future, in accordance with their right to self-determination.

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<sup>2</sup> The Geographer, 1968: 65.

<sup>3</sup> Fretilin is the Revolutionary Front for an Independent East Timor (Frente Revolucionária do Timor Leste Independente). An anti-Indonesian revolutionary movement seeking full independence for East Timor.

A change of leadership in Indonesia in 1998 was swiftly followed with a promise to allow the people of East Timor to take part in a UN sponsored referendum in 1999 to determine their future. Despite widespread intimidation from pro-Indonesian militias, passively supported by the Indonesian security forces, the people voted, on 30 August 1999, by a margin of 4:1, to sever ties with Indonesia and embrace full independence. East Timor then descended into chaos, with pro-Indonesian groups venting their anger against the civilian population, and the UN representatives who had overseen the referendum. Killing of East Timorese civilians and the looting and burning of their property continued uninterrupted by the watching Indonesian security forces, until the intervention of the United Nations peace-enforcement troops in September 1999.

The International Force for East Timor (INTERFET) arrived in East Timor in September, following concerted pressure on Indonesia by the International Community to allow such a force to intervene in the humanitarian crisis which had developed. Led by Australia, the force had a mission to secure the territory of East Timor, and to restore order, filling the security vacuum. The United Nations Mission to East Timor (UNAMET) has the responsibility of filling the administrative vacuum, left by the retreating Indonesians, and preparing the fledgling state for its independent future.

On 1 February 2000, the control of East Timor was transferred from INTERFET to the United Nations Transitional Administration in East Timor (UNTAET). The role of this organisation is to ensure continuing peace and stability for East Timor whilst preparing the state for full independence.

On the ground, the boundary between East Timor and Indonesia remains permeable, largely due to the difficult nature of the terrain which makes peace enforcement and security operations problematic. Aside from the overland routes across the border, Indonesian militias continue to enter East Timor by sea utilising canoes – thus to circumventing land-based security forces.

### **3.2 Boundary History**

Portugal claimed East Timor as a colony in 1701, and throughout the remainder of that century the Dutch asserted their influence in the western part of the Island. A *de facto* partition thus occurred which split Timor into “*two great kingdoms, both in turn divided into a number of principalities.*”<sup>4</sup>

The Netherlands and Portugal first attempted to delimit their territories on the island of Timor in 1859. The purpose of this delimitation was to “*put an end to the disputes regarding the boundaries of the Portuguese and Dutch dominions on the Timor and Solor Archipelago.*”<sup>5</sup> This agreement, the *Treaty of Demarcation and Exchange of Some Portuguese and Dutch Dominions on the Solor and Timor Archipelago, between Portugal and the Netherlands*, was signed in Lisbon on 20 April 1859, ratifications being exchanged as at 13 August 1860.<sup>6</sup>

This treaty does not define a demarcation process in the modern sense. Rather it is a very general delimitation of an international boundary, based on the existing boundaries of

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<sup>4</sup> Krieger, 1997: xix.

<sup>5</sup> Almada, 1943: 624.

<sup>6</sup> The full text of the Treaty can be found at Appendix D.

borderland states, under the control of Portugal and the Netherlands. The significant element of this Treaty was the apportionment of sovereign areas to the two parties, and the cession and relinquishment of territories and claims in favour of the other party. However, there was no attempt at this stage to deal with the enclaves that existed on both sides of the boundary line. The Netherlands, as the major Power in this region, had the best of the exchanges with Portugal being compensated financially for her compliance.

Article I of the Treaty lists the bordering states belonging to each of the two Parties, and identifies the boundaries between them as the international boundary between Portugal and the Netherlands.

Article II identifies the exceptions to this delimitation in general terms, these being the continued Dutch sovereignty over the enclave of Maucator (or Calunie) to the east of the boundary line, and the continued Portuguese sovereignty over the enclave of “*Oikoussi*” to the west of the boundary line.

Article III describes the boundary of the Oikoussi enclave in similar terms to the boundary in the centre of the island, i.e. by identifying the border states under the control of each party.

In Article IV, Portugal recognises the sovereignty of the Netherlands over a number of states, whilst in Article V the Netherlands cedes to Portugal the Kingdom of Moubara (Maubara) and the area of Ambenu or Ambeno (Sutrana), “*which for many years has flown the Portuguese flag.*”<sup>7</sup>

The Netherlands relinquishes its claim to the island of Kambing (Pulo Kambing) in favour of Portugal, described in Article VI, whilst Portugal cedes to the Netherlands a number of states and their dependencies, listed in Article VII. The Netherlands’ possession of these territories is then clearly spelt out in Article VIII.

Portugal received a payment amounting to 200,000 Dutch Florins as a form of compensation for its lost territories, as indicated in Article IX.

As Portugal and the Netherlands developed trade in their dominions, it became apparent to them both that a clearer division of their sovereign territories was necessary, to enable them to fully exercise their sovereign rights. A second agreement was, therefore, drafted for signature by the two Governments. This agreement was primarily concerned with trade and development, but also included some Articles relevant to their mutual boundary.

*A Convention to Regulate the Most Favourable Conditions for the Development of Civilisation and Trade in the Dominions on the Solor and Timor Archipelago and the Relevant Declaration* was signed in Lisbon on 10 June and 1 July 1893, in which the ratifications of 31 January 1894 were exchanged.<sup>8</sup> Article I sets out the aims of the agreement:

*In order to enable them to exercise their sovereignty rights, the Higher contracting Parties deem it necessary to establish the demarcation of their dominions on the island of Timor in a clearer and more accurate manner, and to do away with the existing enclaved territories.*

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<sup>7</sup> *Ibid.*: 625.

<sup>8</sup> A full text of this Convention and Declaration can be found at Appendix E.

As in the Treaty of 1859, the term demarcation used here refers to a delimitation and demarcation, although in actual fact this agreement contains no refinement of the delimitation set out in 1859.

Article II outlines the proposed process for the ‘demarcation’ of the island of Timor, which was to be undertaken by a jointly appointed commission of experts. These experts were then to formulate a proposal, which would serve as the basis for a subsequent agreement. The resultant convention would then be submitted to the two Governments’ legislative bodies for approval.

Article VII is interesting, in that it sets out a possible recourse to arbitration, should the two Parties not be able to agree on any inter-colonial relations on Timor. Such a commission, it was recommended, would “*consist of an equal number of arbitrators, chosen by the higher contracting Parties, and an arbitrator appointed by the said arbitrators.*” This Article sets out the arbitration process, which came into play for subsequent boundary disagreements.

By 1895, the proposed composition of an arbitration commission had been further clarified by the two Parties through: *An Agreement by Exchange of Diplomatic Notes, of 9 February 1895, Regarding the Composition of any Arbitrational Commission to which Recourse may be Required Throughout the Period of Validity of the Convention of 5 July 1894 and by Virtue of the Convention of 10 June and the Declaration of 1 July 1894.*<sup>9</sup>

The Convention of 5 July 1894 referred to herein was a Commercial Declaration which had no bearing on the boundary issues of Timor. The Diplomatic Notes bring all of these Conventions into line by stating that where an arbitration commission needs to be set up, it would consist of one arbitrator from each of the two Parties. According to the Diplomatic Notes, were the Parties unable to reach a decision they would “*by joint agreement appoint a third [arbitrator], who shall decide.*”

The proposal put forward in the Convention of 10 June 1893 was finally acted upon by the two Governments in 1897. The composition of the Demarcation Commission and its terms of reference were set out in *An Agreement by Exchange of Diplomatic Notes, of 8 October and 27 December 1897, Relevant to the Demarcation of the Portuguese and Dutch Dominions on the Island of Timor.*<sup>10</sup>

The first of these Notes, issued by the Portuguese Government, sets out a nine Provision plan for the implementation of the Demarcation Commission which had originally been proposed in the Convention of 1893.

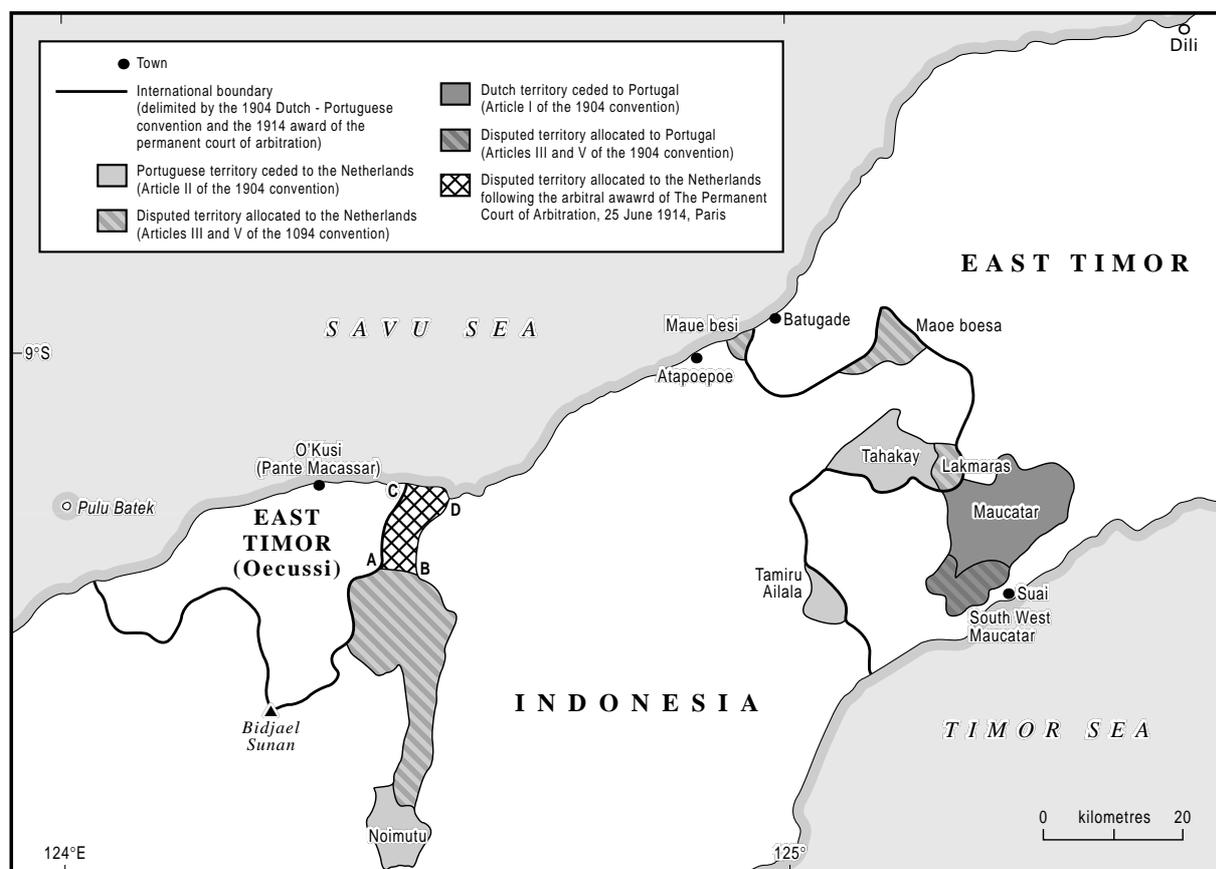
Provision 1 proposes a six-member commission (three from each side) which would be responsible for drawing up a map of the Portuguese-Dutch boundaries on Timor “*...in compliance with the Clauses of the Demarcation Treaty signed at Lisbon on 20 April 1859.*” The remaining Provisions include consideration of the future of the two enclaved territories (Provision 2), the production of Commission documentation in French (Provision 6) and a stated intention to delimit and demarcate the boundaries (Provision 7). These Provisions were fully accepted by the Dutch Government some two and a half months later.

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<sup>9</sup> The full text of these Notes can be found at Appendix F.

<sup>10</sup> The full text of these Notes can be found at Appendix G.

**Figure 2: Boundary Changes on the Island of Timor following the 1904 Boundary Convention between Portugal and the Netherlands, and the 1914 Arbitral Award of the Permanent Court of Arbitration**



The mixed boundary commission finally set about its work on the Island in 1898 and by 1899 had agreed on the majority of the boundary alignments. However, there remained a small number of boundary segments, where diverging opinions persisted between the Portuguese and Dutch representatives' as to where exactly the alignment ran. These were focused at both sections of the centre island boundary, and the eastern boundary of the Oecussi enclave. Boundary work had been interrupted at the eastern side of the Oecussi enclave in 1899, due to warring local chiefs, with the result that a small portion of the boundary in this area was left unsurveyed. The respective claims of the two sides, for all areas of dispute, were mapped, and a conference assembled on 23 June 1902, at The Hague, in order to attempt their resolution. By 3 July 1902, the delegates had produced a plan, which was to form the basis of an agreement signed two years later, also at The Hague.

*A Convention for the Demarcation of Portuguese and Dutch Dominions on the Island of Timor* was duly signed in the Hague on 1 October 1904, in which ratifications were exchanged on 29 August 1908.<sup>11</sup>

In Article 1 The Netherlands cedes its enclave of Maucatar to Portugal, whilst in Article 2, the Portuguese reciprocate by ceding to The Netherlands territories adjacent to the central island boundary, these being Tahakay and Tamiru Ailala. In addition Portugal cedes to The Netherlands territory to the south of its Oecussi enclave at Noimutu (see Figure 2).

<sup>11</sup> The full text of this Convention can be found at Appendix H.

Article 3 then details, in ten clauses, the delimitation of the Portuguese Oecussi enclave. However, the final section, to the northeast of the boundary (i.e. that area not fully surveyed in 1898-99) and listed at clause 10, is left to be “*measured and marked out on the territory at the earliest possible opportunity*”<sup>12</sup> at Article 4. Article 5 details the delimitation of the centre island boundary in eight clauses (see Figures 3 and 4).

Article 14 allows for recourse to arbitration by the two parties in the event of a dispute.

This Convention thus appeared to have resolved all of the differences between the two Powers on the Island of Timor, and to have arrived at a definitive delimitation of the Island’s boundaries. However, when in June 1909 the boundary commissioners arrived at the eastern frontier of the Oecussi enclave boundary, with the task of setting out the boundary metes,<sup>13</sup> they could not agree on the position of the alignment in this sector (equivalent to Article 3, Clause 10 of the 1904 Convention). Unable to arrive at a resolution, the two sides decided to map their two respective claims, and then to refer the dispute to higher authorities for arbitration.<sup>14</sup>

Between 1-10 June, 1909, the boundary commissioners ascended the Noel Meto river, beginning at the northern coast of Timor, and following southwards the course of the river which was to serve as the boundary, a mete having being placed at the mouth of the river.

However, the source of this river was obstructed by steep cliffs, and so the boundary commissioners decided to reconnoitre the area between the point they had reached, and the northernmost point of the boundary as it came from the south, which had reached the Noel Bilomi river. It is in this unbounded territory that a dispute between the Dutch and Portuguese arose.<sup>15</sup> The disputed area is shown in Figure 2, where the line ‘AC’ represents the claim of The Netherlands, and the line ‘DB’ the claim of the Portuguese.

*A Convention for the Purpose of Submitting a Dispute Arising out of the Boundary Delimitation of the Portuguese and Dutch Dominions on the Island of Timor for Arbitration* was signed in The Hague on 3 April 1913, with ratifications being exchanged on 30 July the same year.<sup>16</sup>

The dispute was duly submitted to the Permanent Court of Arbitration in 1913, and an award issued in Paris on the 26 June 1914.<sup>17</sup> The Court considered not only the content of the legal documents signed by the two colonial Powers, but also the principles of international law and the intention with which the agreements had been signed.

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<sup>12</sup> *Ibid.*: 642.

<sup>13</sup> A boundary stone or mark.

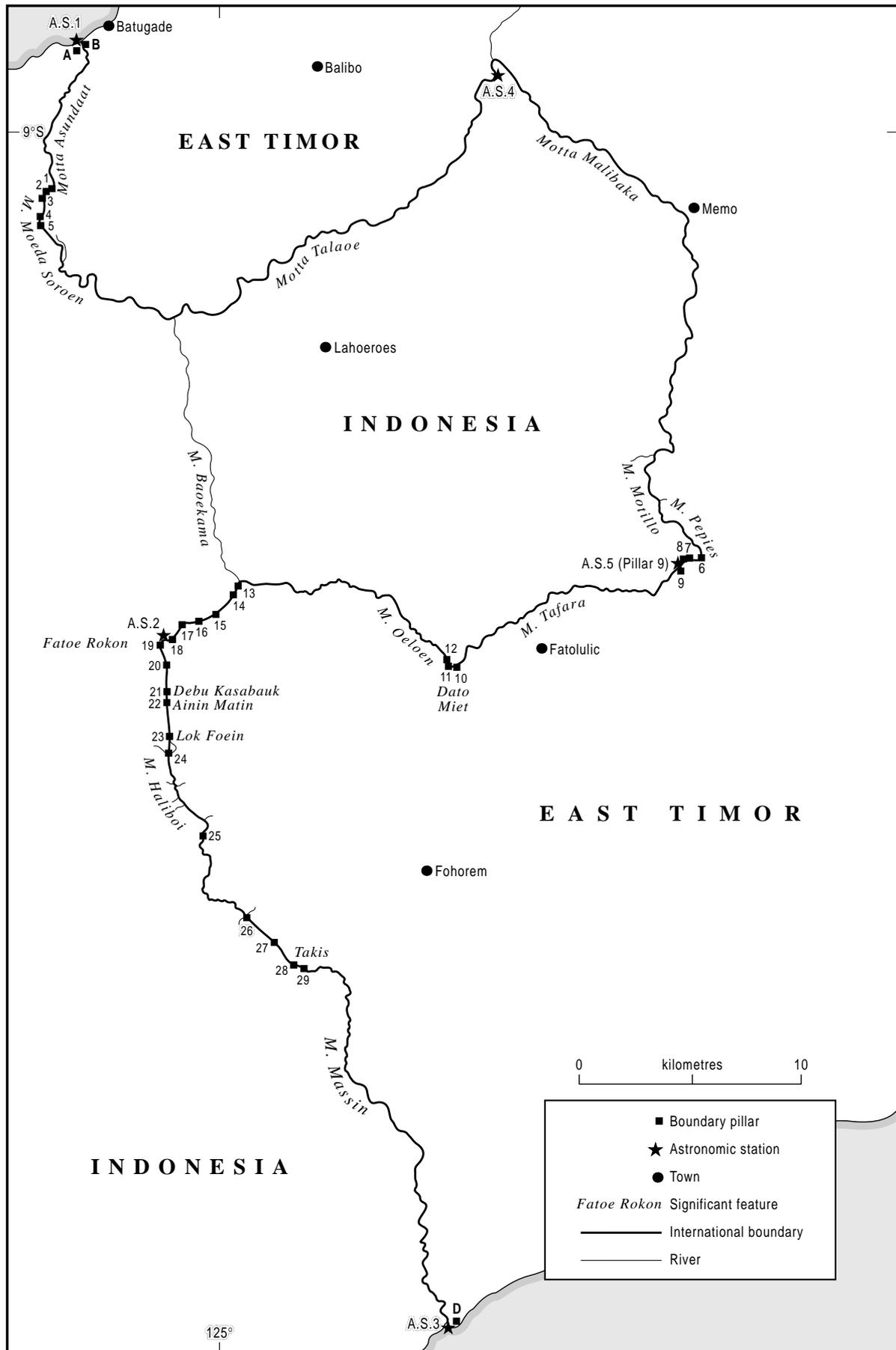
<sup>14</sup> Krieger, 1997: 7.

<sup>15</sup> *Ibid.*: 7. A disagreement first arose in the north: The map...signed in 1904, at the same time as the convention, bore the name *Kelali* accompanied between parentheses by the word *Keli*. The Dutch delegates maintained that the word *Keli* meant on the summit of Mount Kelali, a particular point, situated to the west of the Noel Meto between two “*peaked*” rocks, and which had been indicated by the natives of Tumbaba (Dutch) as the boundary between them and the natives (Portuguese) of Ambeno; according to the Dutch Commissioners this point is a “*magnificent*” natural boundary which nearly follows the limit described on the map of 1904. The Portuguese Commissioners, on the contrary, proposed “*to follow [...] some thalwegs in the country to the east of the line proposed by the Dutch delegates, starting from the same mete*” placed at the source of the Noel Meto. The Commission decided to survey the two lines and to leave the solution to superior authorities.

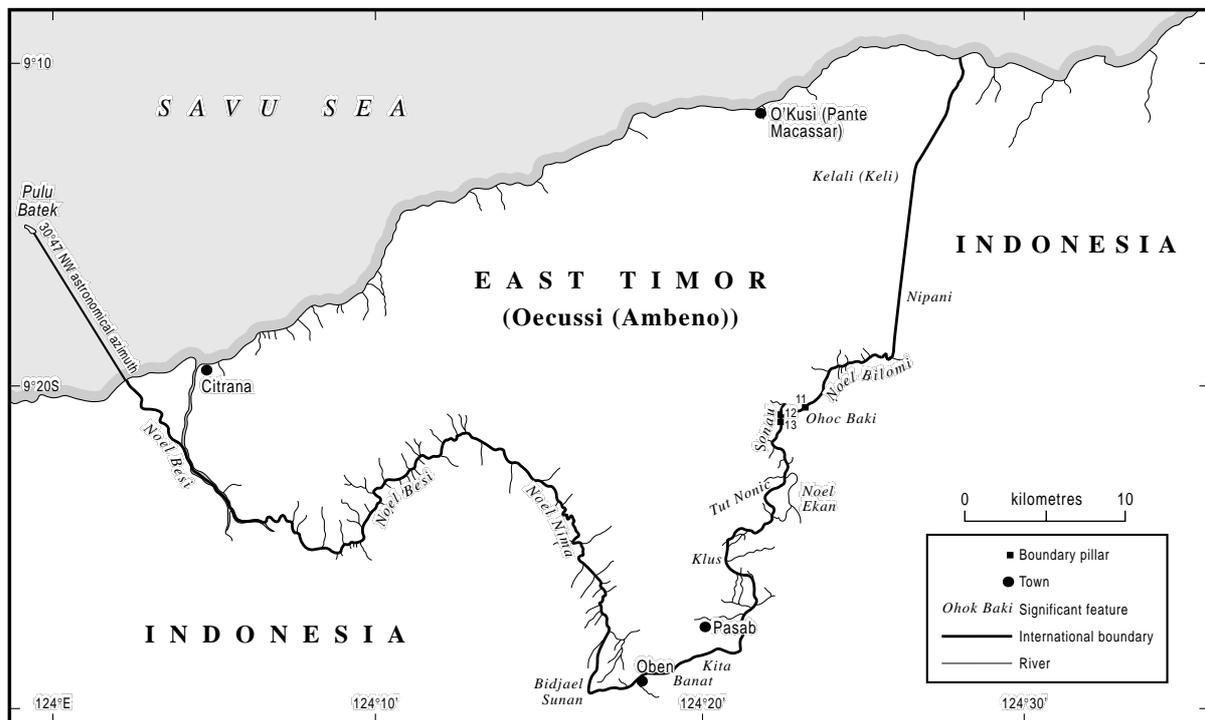
<sup>16</sup> The full text of this Convention can be found at Appendix I.

<sup>17</sup> The full text of this Award can be found at Appendix J.

**Figure 3: Central Island Boundary of Timor, Following the 1904 Boundary Convention between Portugal and the Netherlands**



**Figure 4: Oecussi Enclave Boundary, Following the 1904 Boundary Convention between Portugal and the Netherlands**



The Court found in favour of The Netherlands, and the alignment proposed by Dutch boundary commission was adopted as the boundary between Dutch West Timor and the Portuguese exclave of Oecussi (Line 'AC' on Figure 2).

Effectively, the delimitation from 1904 remained fully active in its entirety, and this agreement remains current in international law for the boundary alignment on Timor.

Following a deterioration of the political situation in the borderlands of the central island boundary (also known as the “*large boundary*” or “*Beloe Grens*”), Article 10, paragraph 2 of the 1904 Convention was utilised to set up a joint boundary commission. This joint commission was appointed in 1915, and was tasked with the following, in light of the survey of 1898:

- a. With placing boundary posts on both banks of the Mota Bikoe and the Motta Massin near the mouths of these rivers; and,
- b. With placing boundary posts where there are no natural boundaries.

The work of the commission began early in April 1915, and it had completed its work by the 26<sup>th</sup> of that month. In addition to the boundary posts ‘A’ and ‘B’, on both banks of the mouth of the Motta Bikoe, and ‘C’ and ‘D’, at the mouth of the Motta Massin, a further 29 boundary posts were located. These posts were placed in areas where the boundary alignment did not follow drainage features. Boundary posts ‘A’ and ‘C’ were placed in Dutch Timor, and bore the inscription “*1904 Dutch Boundary*”, whilst posts ‘B’ and ‘D’ were placed in Portuguese Timor and were inscribed “*1904 Portuguese Boundary.*” The 29 stone posts were numbered 1 to 29 from north to south, and the upper surfaces were provided with grooves pointing in the direction of the following posts (see Section 5 and Figure 3).

## 4. Boundary Status

### 4.1 Analysis of Alignment on Mapping

The boundary alignment, as given in the 1904 Convention, leaves itself open to ambiguity and misinterpretation.

A comparison of geographical source materials reveals a general agreement in alignment between the sources and with the 1904 Convention. The source materials examined include:

**1:25,000** – PETA RUPABUMI INDONESIA, *Peta Rupabumi Indonesia* (Universitas Gajah Mada (UGM) / Badan Koordinasi Survey dan Pemetaan Nasional (BAKOSURTANAL)). Edition 1, 1992-1993.

**1:50,000** – CARTA DE PORTUGAL, *Província de Timor* (Centro de Geografia do Ultramar (SCE / Portugal) / Junta de Investigações do Ultramar (JIU)), Edition 1-S.C.E.P., 1967-1969.

**1:100,000** – DUTCH TIMOR/PORTUGUESE TIMOR, *Dutch Timor / Portuguese Timor* (Topografische dienst, Batavia 1941/Survey Directorate, HQ, ALFSEA), First/Second Editions, 1946.

**1:250,000** – JOINT OPERATIONS GRAPHIC, *Joint Operations Graphic* (Military Survey (MOD, UK)/Defense Mapping Agency, Topographic Centre (DMATC)), Edition 3-GSGS, 1999.

However, a closer inspection identifies many areas of minor discrepancy, and some major areas of difference in alignment affecting large tracts of territory. Much of the boundary alignment follows river *thalwegs*, and these river channels are generally identified and followed on the source materials (see Section 4.3). Nevertheless, in several cases the river name does not correspond with the text of the 1904 Convention, and in the case of several minor rivers, alignments are significantly different between the map sources. Two of the sources, those at 1:25,000 and 1:100,000, show the boundary line falling consistently alongside the river, rather than within the banks of the river, where the *thalweg* is located. A further problem with the alignments of all of the larger scale sources is that river islands are often not clearly apportioned to either East Timor or Indonesia. For some, the boundary symbol divides the islands between the two states, whilst elsewhere the intermittent nature of the symbol leaves the status of the river island uncertain.

Overland stretches of the boundary are even more problematic. There are a number of boundary stones, which were placed at monumented points during boundary demarcation, and these points are identified on some of the mapping sources, but not on others. Where boundary markers are labelled, not all of them have been depicted, especially where several markers are located in close proximity.

## The Centre Island Boundary

1. The first instance of a discrepancy between the source materials occurs as soon as the boundary line leaves the northern coast of Timor. Whilst on the 1:25,000, 1:50,000 and 1:100,000 sources, the boundary alignment follows a river from the coast, in the case of the 1:25,000 the boundary first follows a short overland section. Additionally, the name of the river varies through Mota Bico, Ribeira Motabico and Mota Halimeak, with the text of the 1904 Convention specifying “*Mota Biku.*”

More importantly, on the 1:25,000, sheet 2407-122/121 BATUGADE, the town of Motaain is left to East Timor. However, on the 1:50,000, sheet 18, the town of Motaain is not shown. This could imply that the town falls within the white area of Indonesian territory. The 1:100,000 sheet 91-91/XLVI & 91/XLV clearly locates the town of Motaain in Indonesia. Motaain is similarly left to Indonesia on the 1:250,000 source (see Section 4.2, 8).

2. 1:50,000 sheet 28 shows a sharp right-angled turn in the boundary alignment in an overland sector between Ribeira Açodato and Ribeira Muda Sóran as it rounds the foothills of Mount Railuli. Both the 1:25,000 and 1:100,000 sources portray the alignment as a less angular line that passes through the summit of this mountain (Nuaf Railuli on 1:25,000). There is no mention of this mountain in the text of the 1904 Convention. Nevertheless, all three sources mentioned above show the alignment passing through the point referred to as Berenis (Birenes) in the text of the 1904 Convention.
3. All sources agree that the boundary line follows the course of the River Telau and the River Malibaka. However, there are differences between these sources as to where river islands exist, and how these islands are to be divided between Indonesia and East Timor. The variation in location of river islands is probably due to the semi-permanence or seasonality of some of these features. Most rivers on the island fluctuate seasonally between dry and wet seasons, with few sustaining a constant flow of water. This raises the question as to why the *thalweg* has been used as the delimitation for riverine sections of the boundary when the rivers in question are not only non-navigable, but also intermittent. Leaving this question aside, the river islands portrayed must always fall to either Indonesia or East Timor, as inherently implied in the *thalweg* delimitation. However, on all of the sources, some of the river islands are divided between the two states, or their sovereignty is left uncertain by the boundary symbology used. This is true for other riverine sections of the boundary both in the Centre Island and Oecussi regions.
4. The overland section between boundary pillars ‘6’ and ‘9’ throws up some further discrepancies between the alignments portrayed on the primary map sources. Whilst the 1:50,000 and 1:100,000 sources are in agreement, the native 1:25,000 shows an alignment which appears to cut-off part of the territory which should fall to Indonesia, leaving it to East Timor. Whilst the direction of the boundary line is predominantly southwesterly as it joins the River Tarfara on the 1:50,000 and 1:100,000 sheets, on the 1:25,000 source it joins in a southerly direction.
5. The next overland section between boundary pillars ‘10’ and ‘12’ reveals a similar degree of disharmony between sources. Again the 1:50,000 and 1:100,000 alignments are in agreement, whilst the 1:25,000 source portrays a much narrower and sharper

deviation to the summit of Dato Miet. The smaller-scale sources show a rounded alignment in the vicinity of Dato Miet, whilst the large-scale source is unique in its portrayal of the alignment as a sharp deviation to the summit of Dato Miet. The text of the 1904 Convention is not particularly helpful in this case with its ambiguous “*climbing to the summit of Dato Miet.*”

6. The boundary alignment between boundary pillars ‘13’ and ‘24’ is perhaps the most uncertain when the three largest scale sources are compared. The most striking difference between them is that on the 1:25,000 source the boundary line does not simply cross the River Merak, but follows its course for a short distance. This is in disagreement with the 1:50,000 and 1:100,000 sources, and also with the text of the 1904 Convention which states “*crossing the River We Merak, at the point at which its tributary, the We Nu, joins it.*”

The section between boundary points ‘13’ and ‘19’ shows general agreement between the sources, again with the 1:25,000 being the most wayward when compared to the other source materials. It is the section between boundary points ‘19’ and ‘24’, however, where the greatest deviation occurs. The 1:25,000 source shows an alignment that is comprised of a smooth curve, which stays close to the course of the River Merak in its northern reaches. At the other end of the spectrum is the 1:50,000 alignment. This comprises a number of straight-line sections joining the boundary pillars and travelling in an almost due south direction. Between these two is the 1:100,000 alignment, which also heads in a southerly direction, but is less rigid than the 1:50,000 alignment. This latter alignment is also based on straight-line sections joining the boundary pillars.

The area of the territory delimited by the 1:25,000 map on one hand, and the 1:50,000 and 1:100,000 sources on the other, differs by the order of approximately 5km<sup>2</sup>, with this difference being in favour of Indonesia in the case of the 1:25,000 alignment.

The six paragraphs above refer to the most prominent differences between the source materials examined, but do not by any means identify all of the small deviations which are contained within the maps concerned. The 1:25,000 mapping deviates substantially from the 1:50,000 and 1:100,000 sources, and is also the most deviant when compared to the text of the 1904 Convention. There is little to choose between the 1:50,000 and 1:100,000 sources, although the 1:100,000 source does not provide full coverage to the south of the boundary line. The larger scale and UTM<sup>18</sup> grid of the 1:50,000 mapping elevates this source to best available for portrayal of the Centre Island boundary.

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<sup>18</sup> Universal Transverse Mercator projection.

### **The Oecussi Exclave Boundary**

1. The section of the boundary from Bidjael Sunan to the Noel Ekan is the most problematic of this alignment. The 1:25,000, 1:50,000 and 1:100,000 sources all agree in general terms, but their alignments are significantly different, even when they appear to follow the same features. None of these sources contain a town named “*Oben*” as referred to in the text of the 1904 Convention, and the rivers that are followed or crossed are often named differently or are shown with differing alignments.

The 1:25,000 mapping shows the most pronounced difference when compared to the 1:50,000 and 1:100,000 mapping. The 1:25,000 boundary alignment in this region appears to have been highly generalised and smoothed such that the basic shape is significantly different to the smaller scale sources. The text of the 1904 Convention is highly ambiguous in many cases, and some of the features mentioned are not found on the map sources.

2. The 1914 judgement handed down by the Permanent Court of Arbitration, with regards to the north-eastern segment of the boundary alignment, appears to have been reflected fully in all of the mapping sources. There is a good general agreement between sources along this stretch of the boundary line.

The paragraphs above refer to the most prominent differences between the source materials examined, but do not by any means identify all of the small deviations which are contained within the maps concerned. The 1:25,000 mapping deviates substantially from the 1:50,000 and 1:100,000 sources in some areas, and also is the most deviant when compared to the text of the 1904 Convention. As for the Centre Island boundary, there is little to choose between the 1:50,000 and 1:100,000 sources. The larger scale and UTM grid of the 1:50,000 mapping promotes this source to best available for portrayal of the Oecussi Exclave boundary.

## **4.2 Current Issues/Disputes**

Since the decision of 25 June 1914 by the Permanent Court of Arbitration, which resolved the disputed territory in the borderlands of the Oecussi enclave in favour of the Netherlands, there has been little opportunity for further disputes to arise. Both the Netherlands and Portugal were diverted by the important issues of two World Wars closer to home, the second of which saw the occupation of Timor by the Japanese.

The independence of Indonesia in 1949 meant that, as the successor state to the Netherlands (see Section 4.3), she inherited the international boundary with Portugal on the island of Timor. Despite a strong desire to incorporate Portuguese Timor within its archipelagic state, the Indonesian government became pre-occupied with the re-integration of the western part of the island of New Guinea. This latter territory had been retained by the Dutch in 1949, and was only incorporated into Indonesia in 1963 as West Irian, later known as Irian Jaya. The 1974 revolution in Portugal, and the subsequent civil war in Portuguese Timor, gave the Indonesians the opportunity to add East Timor to their Republic. This was achieved by the invasion of 1975.

Notwithstanding the fact that the international community never formally recognised the incorporation of East Timor within Indonesia, the reality is that a *de facto* incorporation

occurred. The former international boundary between Indonesia and Portugal was thus relegated to the status of a first order administrative division in 1975, separating the Indonesian provinces of Propinsi Timor Timur (East Timor) and Propinsi Nusa Tenggara Timur (West Timor). Fortunately, the former international boundary alignment has remained unchanged from 1975 to 1999, existing as a province division, ensuring that East Timor has been retained as a discrete territorial entity.

The United Nations referendum of August 1999, in which the people of East Timor voted overwhelmingly for independence from Indonesia, has changed matters considerably. At the time of writing, the independence of East Timor has been codified by the Indonesian Parliament (October 1999), and UN peace enforcement troops are on the ground in East Timor. In the short term, it will be necessary for the UN force to recover the international boundary that existed in 1975 (see Section 4.3), thus enabling them to effectively control the territory of East Timor. In the longer term, an independent East Timor will need to re-affirm its international boundaries with Indonesia. This will most likely involve a demarcation or re-demarcation of the boundary lines, possibly with assistance from the UN force, or wider international community. In each case there are likely to be a number of points of dispute which will arise:

1. The referendum of 1999 showed a clear majority of the East Timorese people voting in favour of independence (almost 80%). However, in the East Timorese exclave of Oecussi, the vote was reportedly for integration with Indonesia by a similar margin (unconfirmed). There is no differentiation between the constituent states of East Timor as far as the referendum vote is concerned, with the overall majority being the only relevant figure. However, the marked difference in voting between the main territory of East Timor and its exclave of Oecussi will not have gone unnoticed to the UN, Indonesia and the wider international community.

This result, if confirmed, will fuel the argument that the Oecussi enclave should be separated from the remainder of East Timor and incorporated within Indonesia. As a full territorial dispute, this is an issue that may become more and more important as Indonesia's grip on the rump of East Timor is loosened by the UN forces. Several issues will need to be considered, including the degree of intimidation to which voters in the UN referendum were subjected; the percentage of pro-Indonesian settlers introduced to the enclave since 1975; and the right to the self-determination of peoples.

The UN INTERFET force entered the enclave in October 1999, and has performed peacekeeping duties within Oecussi, just as it has elsewhere within East Timor.

2. The boundary delimitation which is relevant for the East Timor-Indonesia boundary dates from 1904, for the majority of the boundary, and from 1914 for the arbitration which resolved disputed territory adjacent to the East Timorese exclave of Oecussi.

A large proportion of the boundary lines coincide with rivers and streams, and in each case it is the *thalweg* of these features which is to be used for the definitive boundary position within that feature. However, not only is the definition of the term *thalweg* open to several possible interpretations, but the line itself may have migrated or violently altered its position since the delimitation was agreed. This gives rise to a possible bone of contention between the two parties. The rules of international law can be used to

address many of these issues (see Section 4.3), and state practice and case law may help to resolve outstanding disputes.

3. Further to the potential areas of dispute alluded to at (II) above, several of the major rivers, which have been utilised for the boundary contain permanent and semi-permanent island features within their banks. The sovereignty of these islands is a cause for potential dispute, especially where the course of the *thalweg* does not fall clearly to one side of the island concerned. Much of the existing mapping that portray river islands show the boundary line leaving some islands to one party, whilst other islands have been divided, and the status of others has been left uncertain due to the intermittent boundary symbology used.

Issues for particular islands may be further complicated where settlement has occurred, or where these features have been used for cultivation, grazing or fishing purposes. The semi-permanent nature of some of the islands may cause additional problems in terms of the boundary alignment, the position of the *thalweg* and the consideration of the rate of change of position of these alignments.

4. Elsewhere, where the boundary line runs overland, there are different problems of interpretation to be considered. Existing boundary markers and stones are likely to have been removed, displaced or destroyed in the troubles since 1974. The simplistic nature of the delimitation is such that there remains great potential for ambiguity, mis-interpretation and dispute. Terms such as “*climbing*”, “*descending*”, “*through the summits*”, “*passing*” and “*passing through*” clearly are open to differing interpretations, as are the exact locations of features mentioned (e.g. “*the large tree known as Halifca*”). The uncertainty of this delimitation is reflected in the differing alignments shown on the various mapping sources detailed in Section 4.1.
5. When mapping sources are considered, those produced at the time of the delimitation in 1904, and the arbitration in 1914, are of limited accuracy and precision. However, these maps are official documents, and carry the greatest possible probative value in a court of law. Other mapping has been produced by the two colonial powers, Portugal and The Netherlands, whilst, most recently, mapping has also been produced by the current occupiers of the island of Timor, the Indonesians.

Whilst these maps show a high degree of agreement on the boundary alignment, when different scales, projections and geodetic reference systems are considered, there are also several differences, some of which involve significant tracts of territory. These maps must be used with caution, and use of contradictory maps by opposing sides is a further potential source of dispute and conflict (see 8, below).

6. Functional problems could also cause tension and dispute on the Island of Timor. The non-contiguous nature of the East Timorese territories means that communications must run either by sea from the mainland to the exclave, or pass overland and through Indonesian territory. Whilst the latter will undoubtedly be the cheapest and most flexible option, it will leave the East Timorese subject to the whims of the Indonesian Government, who could close the border from their side at any given time, effectively cutting-off the Oecussi exclave.

Functional problems may also occur at the border itself, where border posts will need to be established, and border functionality carried out. The relatively free movement of citizens, with relations on either side of the boundary, is likely to be problematic.

7. Natural resources may be another possible area of dispute, either on land or at sea. Resources that straddle the boundary line will almost inevitably lead to friction between the two states, in terms of ownership and extraction rights. Meanwhile, there is no existing maritime boundary between the two territories, and this will need to be resolved as a priority in order to avoid territorial incidents off the Timorese coastline. The Timor Gap Treaty between Indonesia and Australia (see Section 4.4), is also a problem area, and is complicated by the involvement of a third state. The legality of the Treaty is debatable, and the likely outcome is that the United Nations will either take over the role of Indonesia on behalf of East Timor, or the agreement will be renegotiated to arrive at a definitive delimitation or a revised joint development zone. In the short term, the first option is the most likely.
  
8. The Motaain Incident

On Sunday 10 October 1999, Australian peacekeeping troops of the INTERFET force exchanged gunfire with Indonesian police officers near the town of Motaain. Reports indicate that the incident left two police officers injured, one seriously, whilst a third was killed. Senior Australian Army officers denied that there had been any fatalities.<sup>19</sup>

Jakarta alleged that the Australian troops had strayed into Indonesian West Timor, having confused an Indonesian border post for a militia outpost. Other accounts, however, indicate that the incident was triggered by uncertainty over whether the town of Motaain lies within East or West Timor. Most accounts of the events describe the Indonesian police opening fire, either with warning shots or directly at the advancing Australians.

Journalists accompanying the peacekeeping troops reported that the Indonesian and Australian forces later compared mapping over the area. The Indonesians were using a Dutch produced map which showed Motaain in West Timor (probably the HIND 637, 1:100,000 scale mapping). This mapping shows the town of Motaain to be in West Timor. Ironically, the Australians were using more current Indonesian produced mapping (probably overprinted 1:25,000 or 1:50,000 mapping). This mapping places Motaain in East Timor, but could be misleading. Although the name label “*Motaain*” is to the east of the boundary line, there are built-up areas without labels nearby and to the west of the boundary alignment. These built-up area symbols reflect the position of Motaain on some of the earlier mapping sources.

The different position of the boundary alignment on these sources (see Section 4.1) has also been a contributory factor in this incident.

This incident demonstrates the very serious implications that may arise from the use, or misuse, of mapping sources with differing degrees of currency, accuracy and

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<sup>19</sup> The *Daily Telegraph*, ‘Policemen shot in clash with UN peacekeepers’, 11 October 1999.

reliability, as alluded to at (5) above. In this case, the serious injury, and possible death, of a number of Indonesian police officers appears to have resulted.

### 4.3 Legal Issues

#### *River Boundaries*

As a general rule for boundary delimitations along navigable rivers, the *thalweg* principal has been adopted since the Versailles Peace Conferences of 1919. However, the term *thalweg* is covered by many differing definitions, none of them definitive. At the same Peace Conferences, the general rule prescribed for boundaries following non-navigable rivers, was that the median line (*medim filum aquae*) should be employed.

#### *Thalweg*

*Thalweg* is a German term meaning ‘downway’, that is, the course taken by boats navigating downstream following the strongest current, ascending boats being left with the benefit of weaker currents for their upstream journey.

The rationale behind the choice of the *thalweg* for navigable rivers is to ensure that the main navigational track of the river does not fall wholly within the sovereignty of one of the riparian states, to the exclusion of the other. However, despite its importance, the *thalweg* has no definitive definition in international law. It remains an ambiguous term that has served to aggravate several positional disputes, and there have been no judicial decisions that have attempted to rectify this situation by defining the *thalweg*.

Some examples of definitions of the *thalweg* include:

Definition	Source/Example
The main channel of the river	
The thread of maximum velocity in the river	
The line of greatest depth	Samuel Wittemore Boggs
The streamline of the fastest current	Samuel Wittemore Boggs
The line of continuous deepest soundings	Haataja (1929) 1932, Iraq-Syria boundary
..the line of the deepest depression. (Utilised for dry wadi boundary)	1991 IKBDC, <sup>20</sup> Iraq-Kuwait
The most suitable navigational channel	1827 Treaty, Baden-France 1879 Treaty, Bulgaria’s boundaries
...the median line of the main navigable channel at the lowest navigable level.	1975 Algiers Protocol, Iran-Iraq

The 1975 Algiers Protocol defining the international boundary between Iran and Iraq remains the most sophisticated for a river boundary agreement, signed to date, in international law.

<sup>20</sup> IKBDC – The Iraq-Kuwait Boundary Demarcation Commission.

This protocol contains a detailed definition of the Shatt al-Arab river boundary between the two states. The definition used here (see above) underlines the fact that the *thalweg* is itself a zone which needs to be divided by a median line to arrive at a definitive alignment.

Despite these uncertainties, the *thalweg* principle is reinforced by considerable state practice and precedent. There are functional problems however, caused by the custom of shipping keeping to the right when navigating a river. The use of the *thalweg* has descending shipping moving along the line of jurisdiction between the two riparian states, whilst ascending shipping will always be under the jurisdiction of the right-hand state.

Ironically, there is greater agreement in international law on the effect of the movement of the *thalweg* due to physical factors, than on the definition of the *thalweg* itself. Where the course of the river shifts gradually by a process of erosion or accretion, such as migration of river meanders, then the boundary alignment will shift to follow the changing course of the *thalweg*. However, where the movement of the river course is more violent, known as avulsion, the boundary line will remain in place, continuing to follow the course of the former channel.

Recent boundary treaties have tended to include their own general rules for the movement of the river course. The 1975 Iran-Iraq agreement allows for the two states to redirect the course of the Shatt al-Arab back to its original channel in the event of a change of course, thus maintaining the “*national character*” of the two states.

#### *Conquest, Annexation and Assimilation*

In order to acquire the title to a territory by conquest, the conquering power must not only occupy the subject territory, but also clearly indicate its intention to annex that territory. Assimilation is the method of subjugation by the threat of force, and is often followed by a transfer of territory through cession by the subjugated state.

The Indonesian annexation of East Timor clearly falls within this grouping of methods of acquisition of territory. The question is whether this is a legal method of acquisition, and so whether Indonesia acquires the root to title by international law.

The concept of inter-temporal law states that the legality of an action is governed by the rules of international law at the time of that action, not at the time that the action is considered. Therefore, the actions of Indonesia in acquiring and annexing the territory of East Timor must be considered according to the rules of international law in 1975.

Since the 1920s, international law no longer recognises that a State can acquire title to territory by conquest, in other words by acquisition through war. This principle was first articulated through the Covenant of the League of Nations, and further expanded by the Kellogg-Briand Pact of Paris in 1928, before being codified in the United Nations Charter, Article 2(4). The only state practice which has gone against this view has been that of a handful of states that are rightfully regarded as pariahs e.g. the Axis Powers before and during WWII, and more recently Saddam Hussein’s Iraq.<sup>21</sup>

The act of Indonesia in 1975 is therefore invalid in terms of international law, with the result that Indonesia does not inherit the root of title to the territory of East Timor. The root of title remains with the colonial Power, the Portuguese.

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<sup>21</sup> McHugo, 2000-2001: 84.

### *Successor State*

When the root of title to a territory passes from one state to another, these states are known as the predecessor and successor states, respectively. The successor state not only inherits the root to title from the predecessor state, but also all of its responsibilities in terms of treaties and agreements relevant to the territory made with neighbouring states. In this way, the successor state inherits the international boundaries that were recognised by international law at the time of the transfer of territory.

Successor states are most frequently formed in international law when a territory becomes independent from a colonial power, or upon the disintegration of a federal state (e.g. Yugoslavia). The independence of Indonesia in 1949 made it the successor state to The Netherlands' Dutch East Indies territory. Indonesia thus inherited all of the boundary agreements signed by The Netherlands with respect to the Dutch East Indies, including those with Portugal affecting territory on the Island of Timor.

## **4.4 Maritime Boundaries**

During the colonial period, there were no agreements or arrangements made between Portugal and The Netherlands concerning their common maritime boundaries adjacent to the Island of Timor. Similarly, since Indonesian independence in 1949, and up to the Indonesian incorporation of East Timor in 1975, Portugal and Indonesia did not enter into any such arrangements.

The subsequent incorporation of East Timor by Indonesia in 1975 meant that there has been no necessity to arrive at a maritime boundary agreement between the eastern and western parts of the island, which during this period held the status of first order administrative divisions.

However, there have been three maritime agreements between Indonesia and Australia that have implications for the Island of Timor and for the emerging state of East Timor. The first two of these date back to the period 1971-1972, prior to the incorporation of East Timor into Indonesia. The legality of these agreements is not in question, unlike the third, a treaty signed in 1989, again between Indonesia and Australia, but involving the sovereign waters of East Timor.

The first of these agreements, the *Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries* which was signed at Canberra on 18 May 1971, is of minimal importance as far as the island of Timor is concerned, referring as it does to the maritime boundary between West Irian (Indonesia) and Australia.<sup>22</sup>

Article 1 of this agreement lists a series of twelve turning points (A1-A12) which constitute the maritime boundary turning points between Australia and Indonesian New Guinea (Irian). The only relevance that this delimitation has to East Timor, is that the subsequent agreement between Indonesia and Australia was built onto this first agreement as a supplementary delimitation.

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<sup>22</sup> Selected text of the Treaty can be found at Appendix K.

The supplementary agreement followed on within two years: the *Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas – Supplementary to the Agreement of May, 1971* was signed at Jakarta on 9 October 1972.<sup>23</sup>

This agreement did two things. Firstly it extended the delimitation of 18 May 1971 to the west, up to the eastern limits of the island of Timor, this territory still at this time being under the control of Portugal. Secondly, a separate delimitation was added between the coasts of Indonesian West Timor and Australia. The result is that a gap is left between the two delimitations which equates to the maritime area where Portuguese Timor [East Timor] and Australia face each other across the Timor Sea. This became known as the ‘Timor Gap’.

The extension of the May 1971 delimitation to the west can be found in Article 1, where the turning points A13-A16 are listed, these being supplementary to the turning points A1-A12 listed in the previous agreement, to which they are directly linked. Article 2 then lists the turning points, A17-A25 which are joined to create the delimitation between Indonesian West Timor and Australia, but are not connected directly to turning point A16.

Article 3 provides for further negotiation between the two parties with respect to any further delimitation in the Timor Sea between points A16 and A17. This Article is important, as this is exactly what happened in 1989 resulting in the Timor Gap Treaty.

Articles 7 and 8 make provisions for the joint exploitation of hydrocarbon resources straddling the maritime boundary. There are provisions for the unitisation of a straddling oil field for effective exploitation, and for the accommodation of existing exploration permits which now straddle the maritime boundary.

The most controversial maritime agreement between Indonesia and Australia was signed some seventeen years later. By this time, the Indonesians had realised that in the previous agreements, of 1971 and 1972, they had made excessive concessions to Australia in terms of a maritime boundary based on the natural prolongation of the continental shelf. The agreed lines followed the Timor Trough, an ocean floor depression, which runs far closer to Timor than to Australia. International law and state practice had meantime moved towards more equitable delimitations that gave little weight to natural prolongation of the continental shelf or to the geography of the ocean floor, at least with regard to areas within 200 nautical miles of the coast.

The resultant problem was that a straightforward joining of the two delimitations ending at turning points A16 and A17 was no longer acceptable to Indonesia, the latter having realised that a maritime boundary closer to Australia’s coastline would be more in keeping with contemporary thinking on maritime boundary delimitation. A pragmatic approach was therefore required to resolve the filling of the ‘gap’ in the maritime boundary delimitation, and this arrived in the form of the Timor Gap Treaty.

*The Agreement between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia* was signed in an aircraft overflying the Zone of Cooperation on 11 December 1989.<sup>24</sup>

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<sup>23</sup> Selected text of the Treaty can be found at Appendix L.

<sup>24</sup> Selected text of the Treaty can be found at Appendix M.

The closing of the Timor Gap had become a high priority for Australian oil companies who were anxious to exploit the suspected hydrocarbon resources below the seabed in this region. However, with Indonesia now enlightened in the evolving principles of international law with regard to maritime boundaries, the conclusion of an agreement was always likely to be difficult. Talks began in 1979, and it was not until ten years later that the Indonesians accepted a pragmatic proposal from the Australians that would allow both states to benefit from the resources of the Timor Gap region without the need to enter into a definitive delimitation. The Treaty was expressly “*sovereignty neutral*” and provided a temporary expedient, valid for forty years with an option to extend for a further twenty.<sup>25</sup>

Until 1985, the Australians had argued for a continuation of the delimitations agreed in 1971 and 1972, which would have left them with control of approximately 70% of the seabed. Indonesia argued for the use of the median line, and were unwavering in this view, feeling as they did that they had been “*taken to the cleaners.*”<sup>26</sup> in the previous agreements. Indonesian willingness to draw out the negotiations finally paid off when the Australians came to the table with their proposals for Zones of Cooperation in order to break the deadlock.

Article 1, paragraph 1P, indicates that the Zones are to be defined in accordance with the area “*so designated and described in Annex A and illustrated in the maps forming part of that Annex*” (see Figure 5). It is in Article 3, however, where the three areas of the Zone of Cooperation, Areas A, B and C, are identified, and the regime for exploitation of hydrocarbons is detailed. The Australia-Indonesia Timor Gap Treaty, together with its annexed model production sharing agreement and Petroleum Mining Code runs to in excess of 100 pages and is therefore the most complex and comprehensive maritime joint development agreement in the world. Indeed, the Timor Gap joint zone has been held up as a model for other states around the world to follow.

Nevertheless, Portugal, which at this time was still considered, by the international community, to be the administering authority for East Timor, was particularly concerned at these developments. It was most concerned about the loss of the sovereign rights of the people of East Timor over their natural resources. Portugal had made its feelings known to Australia during negotiations over the Timor Gap Treaty, but once the Treaty had been signed and implemented, the Portuguese resorted to recourse to the International Court of Justice at The Hague. Unfortunately for Portugal, Indonesia does not recognise the compulsory jurisdiction of the Court and so the case could only be brought against Australia. An application was duly lodged with the Court registrar on 22 February 1991.<sup>27</sup>

The oral pleadings of Australia’s objections to the case were finally heard in 1995, and the court reached a decision on 30 June 1995 that it could not fully exercise its jurisdiction over the case, due to the absence of Indonesia from the proceedings. Australia had argued that the Court would need to consider the rights and obligations of a third state (Indonesia), but could not do so as this state was not part of the proceedings. The Court upheld this objection.

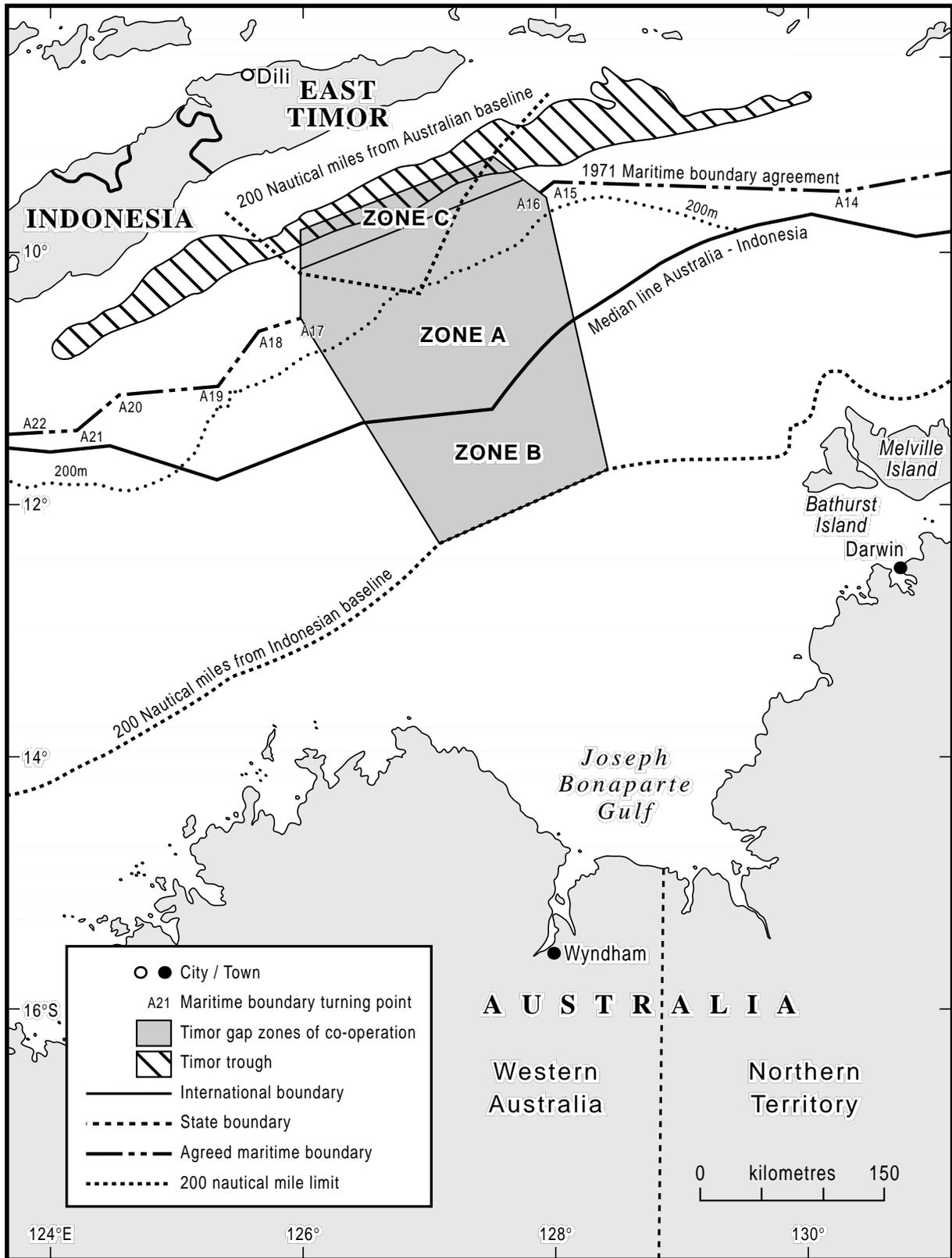
As a result the Timor Gap Treaty, and the three Zones of Cooperation, have remained in operation, much to the disgust of Portugal. However, since the referendum of August 1999, and the decision of October 1999 by the Indonesian parliament to grant East Timor the independence that it voted for at the referendum, the maritime issue takes another twist. The

<sup>25</sup> Lloyd-Smith, 1992: 26.

<sup>26</sup> The words of the Indonesian Foreign Minister Mochtar, taken from – *ibid.*: 26.

<sup>27</sup> See Krieger (1997: 371) for the application of Portugal to the ICJ.

Figure 5: The Timor Gap Zones of Cooperation



Timor Gap now falls between an independent East Timor and Australia, and the future of the Zones of Cooperation must be in some doubt (see Section 4.2, 7).

Indonesia's stake in the Timor Gap has been taken over by the United Nations (UNTAET) on behalf of East Timor. Area A of the Joint Development Zone (JDZ) contains three small oilfields and a sizeable gas-condensate field, all of which East Timor would ideally like to bring under its full control, along with any future discoveries. Resources from Zone A are currently shared equally between Australia and East Timor, despite the fact that all of this zone lies on the northern side of a notional equidistance line. Australia would prefer to maintain the *status quo*, in order to benefit from the exploitation of an estimated 29 million barrels of oil, 300 million barrels of condensate and 85 billion cubic metres of gas. Whilst East Timor's economy could benefit greatly from complete control of the exploitation of these resources, there is value in continued cooperation with Australia, and use of Australian technology and proposed processing facilities at Darwin. Such a partnership would open up both Australian and overseas markets. It is therefore likely that East Timor will wish to continue with the Timor Gap Treaty, but with a re-negotiation of the terms of the treaty so that a larger share of the revenue accrues to Dili. Termination of the Timor Gap treaty would leave East Timor without revenue from the JDZ, pending a further agreement on maritime divisions.

East Timor must also face up to the difficult task of resolving its outstanding maritime boundary delimitations with Indonesia. Continued operation of the Timor Gap treaty will allow a deferral of any delimitation with Australia, but there are three boundaries to be resolved with Jakarta. One originating at each end of the central island boundary, and a third delimiting the maritime political space adjacent to the East Timorese exclave of Oecussi. Equidistance lines will most likely form the starting point for negotiations on these alignments, and it is expected that the final delimitations will not produce any significant deviation. A point of contention during negotiations may be Indonesia's choice of base points for its archipelagic baselines, and the influence that these will have on lines of equidistance.<sup>28</sup>

## **5. Survey Information**

The centre island boundary of Timor was surveyed in 1915 by a joint Dutch-Portuguese commission.

As previously mentioned (see Section 3.2), the work of the commission began in early April 1915, and it was concluded later that same month. Boundary posts were sited on both banks of the northern and southern termini rivers, with a further 29 posts in between, where the boundary alignment did not follow drainage features. The geographical locations of these posts were not available to the author.

In addition, five astronomic stations were surveyed in for the accurate fixing of the boundary posts and stones. The details of these stations are as follows:

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<sup>28</sup> Prescott, 1999-2000: 72-82.

NUMBER AND NAME	DESCRIPTION / POSITION	GEOGRAPHICALS BATAVIA MERIDIAN		GEOGRAPHICALS GREENWICH MERIDIAN	
		Long. λ	Lat. φ	Long. λ	Lat. φ
A.S.1 Silaba	37 metres north of boundary post 'A' on the beach, east of camp. Silaba	18°08'32".25 E	8°57'38".7 S	124°57'00".25 E	8°57'38".7 S
A.S.2 Dafala	Approx. 450 metres north-east of post '19'	18°10'28".95 E	9°11'4".40 S	124°58'56".95 E	9°11'4".40 S
A.S.3 Mottaalas	On the beach, south-east of boundary post 'D'	18°17'05".40 E	9°28'05".6 S	125°05'33".40 E	9°28'05".6 S
A.S.4 Noena-oera	On the tongue of land near the confluence of the Motta Taloe and the Motta Malibaka	18°18'28".50 E	8°58'19".2 S	125°06'56".50 E	8°58'19".2 S
A.S.5 Boeloe	15 metres west of post '9'	18°22'41".25 E	9°10'10".4 S	125°11'09".25 E	9°10'10".4 S

A review of the boundary survey and markers was undertaken in 1923 by the Batavia Topographic Institution, and the following details are from their 1924 report:<sup>29</sup>

Boundary posts 'A', 'B' and 'D' were all still in place in 1923, but post 'C' on the Dutch side of the mouth of the Motta Massin had been washed away, and had completely disappeared.

Post 1 – at the source of the Motta Asundaät was so close to, and hidden under, a tree that it could not be easily located. In the confusion, post 'A' had often been mistaken for post 1.

Posts 10/12 – these posts were transposed during placement; post 10 was at the source of the Motta Tiborok and post 12 was at the source of the Motta Oeloen (Alun).

Post 19 – could only be accessed through a narrow opening in a thick cactus hedge in the middle of Fatoe Rokon.

Posts 21 (Deboekasabaoek), 22 (Aininmatan), 23 (Lokfoein), 24 (confluence of Motta Haliboi and Motta Halisoboek), 28 (Kaléekliot) and 29 (near source of Motta Massin) had all disappeared.

All Astronomic Stations were marked by posts, firmly placed into the ground. It was recommended in this report, that they be replaced with stone posts.

Thus after only eight years, fully 30% of the boundary markers had major problems associated with them. When it is considered that in the three-quarters of a century subsequent to this report, Timor has seen a Japanese invasion; the Indonesian annexation of East Timor; a prolonged guerrilla war and the recent crisis, it may be expected that this percentage is now significantly higher. A second demarcation exercise will, therefore, be necessary in order to clarify the alignment of the boundary where it does not follow distinct natural features.

<sup>29</sup> Batavia Topografische Inrichting (1924) *Jaarverslag van den Topografischen Dienst in Nederlandsch-Indie over 1923*, 19<sup>de</sup> Jaargang, Batavia.

## **6. Conclusions and Prospects**

The immediate future of East Timor remains uncertain in early 2001. The Indonesian Parliament has ratified the UN referendum result (October 1999) wherein the people of East Timor voted for full independence from Jakarta. Security, and most other state functions, is, at the time of writing, being controlled by the United Nations through its Transitional Administration for East Timor (UNTAET), which replaced the INTERFET and UNAMET missions in February 2000.

The United Nations, through UNTAET, will now attempt to prepare the fledgling state of East Timor for its transition to independence. However, it is impossible to predict how much time will be needed to rebuild state functions and to install a democratically elected government. UNTAET possesses full treaty-making powers on behalf of East Timor, which remains on the United Nations list of non-self-governing territories. The UN is in the unique position of being the legal holder of East Timor's sovereignty – the first time in the history of the United Nations that it has taken on such a role.

Part of the transition process will be the recovery of the international land boundary with Indonesia, and the establishment of border control functionality. Also in question is the continued future of the Timor Gap zones of cooperation, and the subsequent maritime boundary delimitation between East Timor and Australia. UNTAET is currently in negotiation with Australia and Indonesia regarding these issues.

The land boundary delimitation is indisputable in international law. However, the interpretation of the clauses of the delimitation may lead to dispute and conflict, as both sides attempt to flex their muscles at their common boundary. Such problems could be eradicated by the setting up of a joint boundary commission to re-survey the boundary alignments, and to produce a definitive boundary agreement. It is likely that the vast majority of boundary monuments placed in 1915 have been either damaged or destroyed, and these will need to be replaced in order to clarify the alignment on the ground. Such a demarcation process will require the co-operation of the two neighbouring entities.

The boundary itself remains highly permeable with repeated incursions from Indonesian West Timor into the United Nations controlled territory of East Timor. Cross-border raids are made relatively easy due to the rugged nature of the borderlands, which are consequently difficult to secure effectively. Pro-Indonesian militia attacks on UN peacekeeping troops have become widespread and commonplace. In response to this continued instability, UNTAET entered into an agreement with the Indonesian military (Tentara Nasional Indonesia, TNI) in April 2000 concerning cross-border security.

This agreement has established a number of boundary junction points for monitoring the movement of peoples and property, and as a point of contact for incident management. Nevertheless, the inability of Jakarta to control militia groups operating from West Timor has resulted in continued instability and violence in the borderlands. In turn, this instability has hampered the return of East Timorese refugees from temporary camps in West Timor to their former homes. In one chilling incident, in August 2000, a New Zealand peacekeeper was captured and killed by militiamen near Fohorem, his body being subsequently mutilated.

In conclusion, the political prospects for East Timor look relatively healthy. In the long-term state functions will be restored to the territory by the United Nations, and power will

eventually be turned-over to a democratically elected government. East Timor will emerge from its colonial past to take its place as a fully independent member of the family of 'nations'. Continued operation of the Timor Gap treaty, either in its present or re negotiated form, will provide East Timor with secure resource and revenue for the foreseeable future. The Timor Gap JDZ has proven to be an operational success, with several notable discoveries made. Unitised oil and gas fields have been developed, and hydrocarbons continue to flow – keeping essential development revenue flowing into Dili.<sup>30</sup>

Issues of concern for East Timor arise from consideration of the sustainability of an East Timorese state, in terms of economic viability and internal development and security. The economy must effectively be rebuilt from scratch, and East Timor will be heavily dependent on assistance from regional partners, such as Australia and New Zealand, as well as from its former master Indonesia. Such dependence may leave East Timor vulnerable to interference from these states, with the result that it will evolve into a satellite state of one of the regional powers, with a similar relationship to that shared by Papua New Guinea and Australia. Cross-border incursions by militia groups based in West Timor and the effect that these will have on borderland stability are a major consideration. Relations with Indonesia will be an important factor in resolving this issue and any others that involve cross-border functionality. A rapprochement between Dili and Jakarta will undoubtedly favour the former considerably more than the latter.

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<sup>30</sup> Prescott, 1999-2000: 76-77.

## Appendix A

### Chronology<sup>31</sup>

The following is a chronological listing of significant events in the political history of the Island of Timor. Those events shown in **bold**, have directly affected the alignment and status of the land boundary between East Timor and Indonesia. Those events shown in *italics* have had a direct impact upon the alignment and status of maritime boundaries and zones off the coast of the Island of Timor.

YEAR	DATE	SIGNIFICANT EVENT
1520		Portuguese explorers first land on Timor in their quest to locate the profitable sandalwood tree.
c1600		Timor has become a Portuguese territory.
1701		The Portuguese colonise the Island of Timor.
1700s		The Dutch, who have already relieved the Portuguese of much of their Asian empire, colonise the western half of the Island of Timor.
<b>1859</b>	<b>20 April</b>	<b>Treaty of Demarcation and Exchange of Some Portuguese and Dutch Dominions on the Solor and Timor Archipelago, Between Portugal and the Netherlands, signed in Lisbon (see Appendix D).</b>
<b>1860</b>	<b>13 August</b>	<b>Ratifications exchanged for Treaty dated 20 April 1859.</b>
<b>1893</b>	<b>10 June and 1 July</b>	<b>A Convention to Regulate the Most Favourable Conditions for the Development of Civilisation and Trade in the Dominions on the Solor and Timor Archipelago and the Relevant Declaration, signed in Lisbon (see Appendix E).</b>
<b>1894</b>	<b>31 January</b>	<b>Ratifications exchanged for Convention dated 10 June and 1 July 1893.</b>
<b>1895</b>	<b>9 February</b>	<b>An Agreement by Exchange of Diplomatic Notes Regarding the Composition of any Arbitrational Commission to which Recourse may be Required Throughout the Period of Validity of the Convention of 5 July 1894, and by Virtue of the Stipulations of the Convention of 10<sup>th</sup> June and the Declaration of 1 July 1894 (see Appendix F).</b>
<b>1897</b>	<b>8 October and 27 December</b>	<b>An Agreement by Exchange of Diplomatic Notes, Relevant to the Demarcation of the Portuguese and Dutch Dominions on the Island of Timor (see Appendix G).</b>
<b>1898 – 1899</b>		<b>A joint boundary commission surveys the Island of Timor’s boundaries, and agreement is reached on most of its length. A complete boundary survey of the Ocussi enclave is prevented by the actions of hostile tribesmen.</b>
<b>1904</b>	<b>1 October</b>	<b>Convention for the Demarcation of Portuguese and Dutch Dominions on the Island of Timor, signed in The Hague (see Appendix H).</b>
<b>1908</b>	<b>29 October</b>	<b>Ratifications exchanged for Convention dated 1 October 1904.</b>
<b>1913</b>	<b>3 April</b>	<b>A Convention for the Purpose of Submitting a Dispute Arising out of the Boundary-Delimitation of the Portuguese and Dutch Dominions on the Island of Timor for Arbitration, signed in The Hague (see Appendix I).</b>
<b>1913</b>	<b>30 July</b>	<b>Ratifications Exchanged in The Hague for Convention dated 3 April 1913.</b>
<b>1914</b>	<b>25 June</b>	<b>Permanent Court of Arbitration, Arbitral Award Rendered in Execution of the Compromis Signed at The Hague, 3 April 1913, between The Netherlands and Portugal Concerning the Subject of the Boundary of a Part of their Possessions in the Island of Timor, Paris (see Appendix J for text of award).</b>

<sup>31</sup> Sources: Day, 1982: 296-302; Prescott, 1987: 285-288; Almada, 1943: 623-671; Europa Publications, 1995: 369-375; Krieger, 1997; The Daily Telegraph and The Sunday Telegraph, 1999; The Times and The Sunday Times, 1999.

		<b>Permanent Court of Arbitration finds in favour of the Netherlands regarding a dispute over 22 square miles of territory to the north-east of the Ocussi enclave.</b>
1915	April	<b>Centre island boundary is surveyed. Five Astronomic Stations are set out, and 29 (+4) boundary posts are established.</b>
1916	17 August	<b>The protocol controlling the boundaries is signed in The Hague.</b>
1942 – 1945		Japanese occupation of the Dutch East Indies during World War II raises hopes of independence.
1945	17 August	In the confusion following the Japanese surrender, the Republic of Indonesia is declared independent.
1949	January	The Dutch have re-conquered the majority of the archipelago. However, a combination of guerrilla warfare and international pressure encourages decolonisation.
1949	27 December	Formal transfer of sovereignty from the Netherlands to the Republic of Indonesia. West New Guinea (West Irian / Irian Jaya) remains under Dutch control. 14-member United States of Indonesia achieves independence.
1950	August	States are dissolved to form the Republic of Indonesia.
1971	18 May	<i>Agreement between the Government of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries, Done at Canberra</i> (see Appendix K).
1972	9 October	<i>Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas– Supplementary to the Agreement of May, 1971, Done at Jakarta</i> (see Appendix L).
1974	April	Revolution in Portugal. The dictatorship of Marcello Caetano is ended by the Armed Forces Movement. Portugal's overseas colonies are moved swiftly towards decolonisation and independence.
1974	September	President Suharto of Indonesia and Prime Minister Whitlam of Australia meet in Java. They agree that an independent East Timor would not be viable, and could cause regional instability. It may also be a possible target for the spread of the Communist ideology. Both sides agree to respect the wishes of the Timorese people and not to interfere, although their opinion is that annexation by Indonesia would be the best solution.
1974	17 October	Dr António de Almeida Santos, Portuguese Minister for Inter-Territorial Coordination visits Jakarta. He states that independence for East Timor is not realistic as the majority of the population wish to retain ties with Portugal. He added that the best way to decolonise Timor would be by a referendum to be held in May 1975, with a constituent assembly being elected before this date.
1975	25 February	The Indonesian Government states that it has no territorial ambition and was not planning an invasion of East Timor.
1975	May	The Portuguese Supreme Revolutionary Council declares that plans for a referendum in East Timor have been discarded.
1975	June	Secret talks, not disclosed until 16 October 1981, in Hong Kong, where Portuguese officials advised the Indonesians that Portugal would accept the incorporation of East Timor into Indonesia.
1975	26 June – 28 June	Meeting in Macao between the Portuguese Government and political parties from East Timor (UDT <sup>32</sup> & Apodeti <sup>33</sup> ). Affirmed that: the people of East Timor had “ <i>the right to self-determination with all its consequences, including independence</i> ” on “ <i>the principle according to which it lies with the people of Timor, and with them alone, to define the political future of the territory.</i> ” Portuguese sovereignty to continue until October 1978 unless otherwise agreed by the Portuguese Government and the proposed Timorese People's Assembly.

<sup>32</sup> UDT is the Democratic Union of Timor party (União Democrática de Timor) whose platform in the mid-1970s advocated continued, but looser, links with Portugal.

<sup>33</sup> Apodeti is the Timorese Democratic People's Union. Their original aim was for the union of East Timor with Indonesia on historical, geographical and ethnic grounds, with East Timor to be given the status of an autonomous province.

1975	13 July	A constitutional law is published providing for elections to the proposed People's Assembly in October 1976. Political and Administrative statutes for the territory of East Timor to be included.
1975	11 August	UDT stages a coup, gaining control of several sectors of Dili, and demanding immediate independence. Portugal's President claims that his Governor in Timor is still in control.
1975	August	Due to the UDT actions, a three-way struggle within East Timor between pro-Portuguese, pro-Indonesian and pro-independence parties escalates into a two-way civil war between UDT and Fretilin. The pro-independence Fretilin party emerges with the upper-hand.
1975	21 August	Portugal admits it has lost control of East Timor. Hundreds of Portuguese are evacuated to Australia where they report atrocities committed by both sides in the civil war.
1975	27 August	The Governor and his administration take refuge on the island of Atauro, north of Dili.
1975	1 September	Fretilin claims to be in complete control of Dili.
1975	7 September	The Indonesian Defence Ministry states that it is considering pre-emptive strikes against Fretilin positions if these are advanced any closer to the border.
1975	8 September	Fretilin claims to be in complete control of East Timor. It states its readiness for peace talks, drops its demand for immediate independence, and declares its wish to move steadily towards self-government with the installation of a provisional government early in 1976, with the election of a constituent assembly. The aim is set for independence within a few years.
1975	9 September	The Indonesian Defence Ministry refuses to accept any possible hand-over of East Timor to Fretilin by the Portuguese.
1975	13 September	Indonesian Foreign Minister appeals for an end to fighting in East Timor, but reserves the right for Indonesia to intervene should the war endanger Indonesian territory.
1975	11 October	Fretilin claims to be in complete control of Portuguese Timor, and to have established a transitional administration.
1975	14 October	Indonesia claims that pro-Indonesian forces control large areas of East Timor, and would control it all by the end of October.
1975	3 November	Foreign Ministers of Portugal and Indonesia meet in Rome and agree that Portugal constitutes the legitimate authority in Portuguese Timor, and is thus responsible for its decolonisation.
1975	6 November	Fretilin refuses to recognise the results of the Rome meeting.
1975	14 November	Fretilin claims that an Indonesian invasion is imminent.
1975	28 November	Fretilin declares an independent 'Democratic Republic of East Timor' (DRET).
1975	29 November	Francisco Xavier do Amaral sworn in as President of DRET. (President of Fretilin). Pro-Indonesian parties claim that all remnants of Portuguese sovereignty have now been removed, and that East Timor is part of Indonesian territory.
1975	1 December	DRET Government formed under leadership of Nicolau dos Reis Lobato. East Timor is recognised by former Portuguese colony, Mozambique.
1975	7 December	Indonesian forces invade East Timor and establish a provisional Government, which requests integration with Indonesia. Jakarta claims that Dili has been liberated by the people's resistance, lead by Apodeti, the UDT and the Kota and <i>Trabalhista</i> parties, supported by Indonesian volunteers. Portugal breaks-off diplomatic relations with Indonesia. Fretilin and its followers continue resistance through guerrilla tactics.
1975	8 December	Indonesia's Foreign Minister states that Indonesian troops will remain in East Timor until its people had decided their own future.
1975	11 December	UN Trusteeship Council passes a resolution (69 votes for, 11 against, 38 abstentions) calling on Indonesia to withdraw from Portuguese Timor immediately.
1975	12 December	UN General Assembly passes a resolution (72 votes for, 10 against, 43 abstentions) calling on Indonesia to withdraw from East Timor and condemning its military intervention.

1975	13 December	Portuguese enclave of Oucssi Ambeno is officially incorporated into Indonesia.
1975	17 December	Provisional Government is formed under Chief Executive Officer, Arnaldo dos Reis Araujo (of Apodeti).
1975	22 December	UN Security Council meet at Portugal's request and unanimously call on Indonesia to withdraw its forces from East Timor without delay, and on Portugal to assist the UN in enabling the East Timorese to exercise their right to self-determination.
1975	23 December	Indonesia rejects the UN Security Council resolution.
1975	28 December	Following the evacuation of the Portuguese Governor and his administration earlier this month, the island of Atauro is occupied by pro-Indonesian forces, ending the Portuguese presence in East Timor.
1976	January	Fighting continues as both pro-Indonesian forces and Fretilin claim to hold the majority of East Timorese territory. Provisional Government claims 60,000 people killed since August 1975.
1976	9 January – 10 January	Indonesia's Foreign minister, Dr Malik, visits Dili and states that his Government regards East Timor to be a <i>de facto</i> part of Indonesia. He also suggests that a consultation of the East Timorese people should take place in a year's time.
1976	13 January	Dr Malik states that the provisional Government has invited the Indonesian Government to proclaim its sovereignty over East Timor. The idea of a consultation had now been discarded.
1976	18 January	UN Special Envoy arrives in East Timor.
1976	21 March	Indonesian Foreign Ministry announces the decision by the Provisional Government of East Timor to establish a Parliament to approve the merger of the territory with Indonesia. The United Nations is informed.
1976	22 April	UN Security Council adopts a resolution sponsored by Guyana and Tanzania calling on Indonesia to withdraw its forces immediately, and requesting the Secretary-General to charge his Special Envoy with the task of fact-finding.
1976	31 May	Parliament of East Timor approves a petition for integration with Indonesia. Parliament consists of a People's Representative Council of 28 members.
1976	7 June	Petition of integration officially handed to President Suharto of Indonesia.
1976	24 June	East Timor is symbolically handed over to an Indonesian fact-finding mission. The UN declines to take part.
1976	29 June	Indonesia's Government officially accepts the merger.
1976	17 July	Indonesian parliament passes a bill legalising the annexation of East Timor.
1976	17 August	East Timor is integrated into Indonesia as its 27 <sup>th</sup> province – Loro Sae, with Arnaldo dos Reis Araujo as its first Governor.
1977	16 June	Australian Foreign Ministry report accepts the incorporation of East Timor into Indonesia as an " <i>irreversible fact.</i> "
1977	16 August	Following the death or capture of many of the Fretilin and UDT supporters continuing the independence struggle, an amnesty is offered to all Fretilin supporters who surrender by the end of the year.
1978	20 January	Australia's Foreign Minister announces his Government's recognition of the incorporation of East Timor into Indonesia, despite being critical of the methods used.
1978		Indonesia claims that about 60,000 Fretilin supporters had surrendered, including the former Fretilin president Francisco Xavier do Amaral.
1978	20 July	New Zealand gives support to Indonesian line on non-interference, and offers to help in development of 'new province'.
1978	15 December	Australia formally recognises the Indonesian take-over of East Timor.
1979	1 January	Fretilin president, Nicolau dos Reis Lobato is killed in battle.
1979	22 May	President Suharto appoints Francisco Xavier do Amaral as deputy governor of Loro Sae province.

1979	5 September	Portuguese Prime Minister hosts leaders of six Timorese rebel groups, which had formed the National Movement for the Liberation of and Independence of Timor-Dili. Fretilin and the UDT are included. The intention is to bring together these forces in a united effort to install independence under a Christian regime.
1980	13 September	Portuguese Government seeks talks with Indonesia on independence for East Timor through self-determination. Portugal refuses to recognise the situation created in East Timor by Indonesia.
1980	21 September	Indonesia rejects Portuguese proposal for talks.
1980	14 November	Australian Foreign Minister, Anthony Street, on a visit to Jakarta states that as far as Australia and Indonesia are concerned the East Timor problem has been settled.
1981	16 October	Release of information regarding secret talks between Portugal and Indonesia in June 1975, in which Portugal advised Indonesia that it would accept the incorporation of East Timor into Indonesia.
1989	11 December	<i>Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia, Done over the Zone of Cooperation</i> (see Appendix M).
1991	22 February	<i>International Court of Justice, Case Concerning East Timor (Portugal v. Australia), Application Instituting Proceedings of the Government of the Portuguese Republic, filed in the Registry of the Court.</i>
1993		Alexandre 'Xanana' Gusmao, commander of the East Timorese resistance, is sentenced to 20 years imprisonment.
1995	January – February	<i>Oral pleadings of Portugal and Australia in the case brought before the International Court of Justice on 22 February 1991.</i>
1995	30 June	<i>International Court of Justice, Case Concerning East Timor (Portugal v. Australia), Judgement.</i>
1998	May	Indonesian President, Suharto, steps down. President Habibie comes into office.
1999	January	Jakarta confirms that it will respect a referendum on independence in East Timor.
1999	5 May	An agreement is signed at the United Nations in New York between the UN, Portugal and Indonesia. This agreement allows for all East Timorese over the age of seventeen to vote on whether to accept a special autonomy arrangement within Indonesia, or to reject this proposal and move towards independence. The vote date was set for the 8 August 1999.
1999	May - August	Pro-Indonesian militias embark on a campaign of terror and intimidation in the run-up to the UN sponsored referendum. The referendum is delayed until 21 August, then 30 August.
1999	30 August	UN sponsored referendum is held at which an estimated 95% of approximately 430,000 registered East Timorese vote. UN volunteer is stabbed to death after leaving work at one of the polling stations.
1999	5 September	Result of referendum shows 78.5% of voters in favour of independence for East Timor. Pro-Indonesian militias escalate violence.
1999	6 September	President Habibie of Indonesia endorses the referendum result. Evidence emerges, through foreign journalists, of the massacre of hundreds of East Timorese civilians by pro-Indonesian militias, apparently supported by the Indonesian army. The United Nations Mission to East Timor (UNAMET) is forced to evacuate its 55 staff from Suai and five other centres to the west of East Timor.
1999	7 September	Thousands of East Timorese are forced to leave their homes at gunpoint by the Indonesian army. Many have been forcibly bussed into West Timor. A massive refugee exodus to West Timor begins. The Australian Air Force flies 400 UN staff and support staff to safety in Darwin.
1999	8 September	Alexandre "Xanana" Gusmao is released by the Indonesian authorities after having served six years of his twenty year sentence. The UN draws up plans for a 7,000 strong peace enforcement intervention force under Australian command, but insists that Jakarta must first give consent. The UN compound in Baucau comes under heavy fire with UN staff trapped inside. UN staff and up to 1,000 refugees are held in a similar position in the UN compound in

		Dili. The Indonesian army imposes martial law and a dusk curfew.
1999	12 September	The majority of UN staff are evacuated from the besieged UN compound in Dili. A small group of UN officials stay behind to attempt to protect the hundreds of refugees seeking refuge in the compound.
1999	13 September	The UN confirms that a peacekeeping force will be sent to East Timor, following the agreement of President Habibie. The force is to be led by up to 4,500 Australian troops. Most of Dili has been razed to the ground.
1999	15 September	The UN compound in Dili is torched as 55 UN staff and 1,500 refugees are airlifted to safety in Darwin, Australia. Estimates suggest that 300,000 East Timorese are now homeless.
1999	20 September	UN peacekeeping force, INTERFET – International Force for East Timor, arrives in Dili to secure the airport and port.
1999	20 October	Indonesian Parliament ratifies the result of the East Timor referendum. The United Nations takes over the immediate control of the territory.
2000	1 February	Control of East Timor is transferred from INTERFET to UNTAET (United Nations Transitional Administration in East Timor).

## **Appendix B**

### **Terms and Abbreviations**

The terms and abbreviations explained below have been used within this document.

<b>Term / Abbreviation</b>	<b>Explanation</b>
<b>Apodeti</b>	Associação Popular Democrática Timorense
<b>DGC</b>	Defence Geographic Centre, DGIA (UK)
<b>DGIA</b>	Defence Geographic and Imagery Intelligence Agency (UK)
<b>DMAAC</b>	Defense Mapping Agency, Aeronautical Center (USA)
<b>FCO</b>	Foreign and Commonwealth Office (UK)
<b>Fretilin</b>	Frente Revolucionária do Timor Leste Independente (Revolutionary Front for an Independent East Timor)
<b>GSGS</b>	Geographical Section General Staff
<b>GSMB</b>	Geographic Support Main Building
<b>ICJ</b>	International Court of Justice
<b>IKBDC</b>	Iraq – Kuwait Boundary Demarcation Commission (United Nations)
<b>INTERFET</b>	International Force for East Timor
<b>LIC</b>	Library and Information Centre (Military Survey, Tolworth)
<b>Mil Svy</b>	Military Survey (UK)
<b>MOD (UK)</b>	United Kingdom Ministry of Defence
<b>RAAF</b>	Royal Australian Air Force
<b>SSD</b>	Standard Series Designation
<b>TLM</b>	Topographic Line Map
<b>UDT</b>	União Democrática de Timor (Democratic Union of Timor)
<b>UK</b>	United Kingdom of Great Britain and Northern Ireland
<b>UN</b>	United Nations
<b>UNAMET</b>	The United Nations Mission to East Timor
<b>UNTAET</b>	United Nations Transitional Administration for East Timor

## Appendix C

### Glossary of English Equivalents to Geographical Terms

The following are a selection of geographical terms that are found in the textual agreements and geographical products referred to in this document. An English language equivalent is provided in each case.

	<b>Term</b>	<b>English</b>
<b>Textual Agreements</b>		
	Mota	River
	Noel	River
	Nono	River
	Fatu	Mountain
	Pulu	Island
<b>Dutch Mapping</b>		
	Rýksgrens	International Boundary
	Steenan grenspaal	Boundary marker, stone
	Toeboe (T.)	Mountain
	Fatoe (F.)	Mountain
	Foho (FH.)	Mountain
	Lolo (L.)	Mountain
	Tandjoeng (Tg.)	Cape or Point
	Mota (M.)	River
	Noil (N.)	River
	Noeaf (N.)	Hill
<b>Indonesian Mapping</b>		
	Mota (M.)	River
	Nuaf	Hill
	Foho	Mountain
	Zol	River
<b>Portuguese Mapping</b>		
	Ribeira	River
	Monte (M <sup>te</sup> )	Mountain
	Fato	Mountain

## **Appendix D**

*Translation of Portuguese text.*

### **Treaty of Demarcation and Exchange of some Portuguese and Dutch Dominions on the Solor and Timor Archipelago, between Portugal and the Netherlands**

Signed in Lisbon on 20 April 1859,  
ratifications having been exchanged as at 13 August 1860.

His Majesty The King of Portugal and of the Algarve[s], and His Majesty The King of the Netherlands, having deemed it prudent to put an end to the disputes regarding the boundaries of the Portuguese and Dutch dominions on the Timor and Solor Archipelago, and wishing to prevent for all time any misinformation that might bring about ill-defined boundaries, and a multiplicity of enclaves, in order to reach an agreement, using the full powers vested in them, provided that namely: His Majesty The King of Portugal and of the Algarve[s], Senhor António Maria de Fontes Pereira de Melo, Knight of the Ancient and Most Noble Order of the Tower and Sword, for Valour, Loyalty and Merit, that of Saint Benedict of Aviz, the Grand Cross of the Order of Leopold of Belgium and that of Charles III of Spain, a member of the Overseas Council, Captain of Engineers, Minister and Secretary of State for the Affairs of the Realm, etc.; and His Majesty The King of the Netherlands, Senhor Joao Luis Jacques António Henrique Heldewier, Knight of the Order of the Crown of Carvalho, and of the Legion of Honour, the Chargé d’Affaires of His Majesty’s Most Faithful Government; who, after having provided evidence of the said full powers, these having been deemed to be in order, agreed to enter into a Treaty of Demarcation and Exchange, containing the following Articles:

#### **Article I**

The boundaries between the Portuguese and Dutch dominions on the island of Timor shall be: to the North, the frontiers separating Cova from Juanilo, and to the South those separating Suai from Lakékune.

Between these two points, the boundaries of the two territories are the same as those of the Portuguese-Netherlands bordering States.

These States are the following:

Bordering States under Portuguese rule: Cova – Balibó – Lamakitu – Tafakay or Takay – Tatumea – Laukeu – Dacolo – Tamiru Eulalang (Eulaleng) – Suai.

Bordering States under Dutch rule: Juanilo – Silawang – Tialarang (Tialara) – Lamaksanulo – Lamakanée – Naitumu (Nartimu) – Manden – Dirma – Lakékune.

#### **Article II**

The Netherlands recognises the sovereignty of Portugal over all the States situated to the East of the boundaries circumscribed in this manner, with the exception of the Dutch State of Maucatar or Calunie (Coluninene), which is enclaved within the Portuguese States of Lamakitu, Tauterine, Follofail (Folofaix) and Suai.

Portugal recognises the sovereignty of The Netherlands over all States situated to the West of these boundaries, with the exception of the Enclave of Oikoussi proper, which continues to be Portuguese.

### **Article III**

The Oikoussi Enclave comprises the State of Ambenu over the whole area in which the Portuguese flag flies, the State of Oikoussi proper and that of Noimutu.

The boundaries of this Enclave are the borders between Ambenu and Amfoang, to the East of Insana and Reboki (Beboki), comprising Cisale, to the East, and Sonnebait, comprising Amakono and Tunebaba (Timebaba), to the South.

### **Article IV**

On the island of Timor, Portugal subsequently recognises the sovereignty of The Netherlands over the States of Ambassi, Bibico (Traynico, Waymico), of Buboque (Reboki), of Drima (Dirma), Tialara (Tialarang), of Lumacané, Nira (Lidak), Juanilo, Mena and Tulgarite or Tolgarita (Dependencies of the States of Harneno).

### **Article V**

The Netherlands cedes to Portugal the Kingdom of Moubara (Maubara) and the area of Ambenu or Ambeno (Sutrana) which for many years has flown the Portuguese flag.

After the exchange of the ratifications of this Treaty, by their Majesties The Kings of Portugal and of the Netherlands, have been verified, the Government of the Netherlands shall issue an order to the High Commission of the Dutch [East] Indies to hand over the Kingdom of Moubara (Maubara) to the Portuguese High Commission of Timor, in Dilly.

### **Article VI**

The Netherlands relinquishes all, or any, claims over the Island of Kambing (Pulo Kambing) to the north of Dilly, and recognises the sovereignty of Portugal over this island.

### **Article VII**

Portugal cedes the following dominions to the Netherlands:

The States of Larantuca, Sicca and Paga, on the Island of Flores, along with their dependencies; the States of Woure on the Island of Adenara; the State of Pamang Kaju, on the Island of Solor.

Portugal relinquishes all claims which she could possibly bring to bear on the other States or locations, situated on the above Islands, or on those of Lomblem, Pantar or Ombay; whether these States fly the Portuguese or the Dutch flag.

### **Article VIII**

By virtue of the stipulations of the foregoing Article, The Netherlands enters into full and indivisible possession of all the Islands situated to the North of Timor, namely:

The Islands of Flores, Andara, Solor, Lomblem, Pantar (Quantar) and Ombay, along with the two adjacent Islands, belonging to the Solor Archipelago.

### **Article IX**

In compensation for the loss that might be experienced by Portugal in the exchange of the relevant dominions referred to above, the Government of The Netherlands shall:

1. Release the Portuguese Government, completely, from its obligation regarding the sum of 80,000 Dutch Florins, loaned in 1851 to the Governorship of the Portuguese dominions on the Timor Archipelago, by the Dutch [East] Indies Governorship.

2. It shall further grant the Portuguese Government the sum of 120,000 Dutch Florins.

This sum shall become payable one month with effect from the exchange of the ratifications of the present Treaty.

**Article X**

Freedom of religious worship is guaranteed, by the Parties of both Parts, to the inhabitants of the territories exchanged under the terms of this Treaty.

**Article XI**

The present Treaty, which shall be submitted for approval by the Legislative Assembly, in compliance with the stipulations of the Laws in force in the kingdoms of Portugal and The Netherlands, shall be ratified, and the ratifications shall be exchanged in Lisbon, within a period of eight months, with effect from the [date of] signing thereof, or earlier if possible.

In witness whereof, the respective Plenipotentiaries signed the present Treaty and sealed it with their armorial seals.

Processed in Lisbon on 20 April 1859.

## **Appendix E**

*Translation of Portuguese text.*

### **A Convention to Regulate the Most Favourable Conditions for the Development of Civilisation and Trade in the Dominions of the Solor and Timor Archipelago and the Relevant Declaration**

Signed at Lisbon on 10 June and 1 July 1893,  
in which the ratifications of 31 January 1894 were exchanged.

#### **Article I**

In order to enable them to exercise their sovereignty rights, the Higher contracting Parties deem it necessary to establish the demarcation of their dominions on the Island of Timor in a clearer and more accurate manner, and to do away with the existing enclaved territories.

#### **Article II**

The Higher contracting Parties shall appoint a commission of experts for that purpose, which shall be responsible for the formulation of a proposal that will serve as a basis for a subsequent convention, determining the new demarcation line on the said Island.

This convention shall be submitted for approval by the legislative bodies of both countries.

#### **Article III**

On the Island of Timor, the respective authorities shall grant the fishing boats belonging to each of the Higher contracting Parties, and their crews, the same protection enjoyed by their counterpart subjects.

The trade, industry and navigation of the two countries shall enjoy treatment as the most favoured foreign nation, save for special treatment granted by the Higher contracting Parties, respectively, to the indigenous states.

#### **Article IV**

The Higher contracting Parties hereby resolve that the importing and exporting of any firearms, whether fully assembled or in separate parts [kit-form], their cartridges, caps and other ammunition intended for them, are banned on their dominions on the Timor and Solor Archipelago.

Regardless of the provisions specifically adopted by the governments for arming their Police Force and for the organisation of their defence, individual exceptions may be admitted in favour of European subjects who shall furnish a guarantee sufficient to ensure that the weapons and ammunition shall not be sold to third parties, and in favour of foreign travellers provided with a statement from their government to the effect that the weapon and its ammunition are exclusively intended for their personal protection.

#### **Article V**

The Higher Authorities of the Portuguese and Dutch sectors of the Island of Timor, shall be authorised, by common agreement, to annually fix the number and quality of unfinished firearms and the quantity of ammunition to be imported throughout the same year, as well as the conditions under which the said import may be granted.

The import referred to, however, may take place through the mediation of certain individuals or agents residing on the same Island, and who are in receipt of prior, special authorisation from the relevant Higher Authority.

Should the authorisation referred to be abused, it shall be withdrawn, never to be renewed.

### **Article VI**

In an effort to show proof of its wish to consolidate good-neighbourly relations, the Dutch Government hereby states that it waives the indemnity to which it claims to have a right, by virtue of the manner in which some Indo-Dutch fishermen were treated by the Portuguese authorities of Timor between 1889 and 1892.

### **Article VII**

Whenever any dispute in their inter-colonial relations on the Timor and Solor Archipelago should emerge, with regard to the interpretation of the present Convention, the Higher contracting Parties shall undertake to abide by the decision of an arbitrational commission.

This Commission shall consist of an equal number of arbitrators, chosen by the Higher contracting Parties, and an arbitrator appointed by the said arbitrators.

### **Article VIII**

The present Convention shall be ratified, and its ratifications exchanged in Lisbon. In witness whereof, the Plenipotentiaries signed it and appended their seals.

Processed in Lisbon, in duplicate, on 10 June 1893

### **Declaration**

The undersigned Plenipotentiaries of the governments, signatory to the Convention of 10 June 1893, agree as to the following Declaration:

In order to guarantee the outcome of their common action, which is chiefly aimed at developing the trade and industry of their subjects, by means of safety and stability guarantees, the Higher contracting Parties hereby declare that they mutually recognise in each other their rights of preference under terms identical, or equivalent to, those which had been proposed in the event of cession, whether part of, or of the whole of their territories, or of their sovereign rights on the Timor and Solor Archipelago. Upon any disagreement relevant to these terms, the dispositions set out in the foregoing Article 7 of this Convention shall apply.

The present Declaration, which shall be ratified at the same time as the Convention is concluded in Lisbon, on 10 June 1893, shall be considered as forming an integral part of this Convention, and shall have the same power and value.

In witness whereof, the Plenipotentiaries signed the present Declaration and appended their seals thereto.

Signed in duplicate, in Lisbon, on 1 July 1893.

## **Appendix F**

*Translation of Portuguese text.*

### **An Agreement by Exchange of Diplomatic Notes, of 9 February 1895 Regarding the Composition of any Arbitrational Commission to which Recourse may be required throughout the Period of Validity of the Convention of 5 July 1894 and by virtue of the Stipulations of the Convention of 10 June and the Declaration of 1 July 1894**

**Lisbon, 9 February 1895,**

Mr. Minister, Sir.-

In accepting the arbitrational principle applicable in our recent conventions of 10 June 1893 and 5 July 1894, we have adopted two different rules with regard to the composition of the arbitrational commissions.

Even though the provisions of our Commercial Declaration of 5 July last do not detract from the principles of the Convention of 10 July 1893, nor from the Declaration of 1<sup>st</sup> July of the same year, concluded in Lisbon, for the purpose of regulating the colonial relations of our two countries on the Timor and Solor Archipelago, the Royal Government proposes that it should be established forthwith, that all and any commission of arbitrators to which recourse may be sought during the period of validity of the Commercial Convention of 5 July last, and by virtue of the stipulations contained in the Convention of 10 June or the Declaration of 1<sup>st</sup> July 1893, referred to above, shall be made up of two arbitrators, who, in the event of a difference of opinion arising, shall by joint agreement appoint a third, who shall decide.

It shall be hereby understood that the provisions of Article 7 of the above Convention of 10 June 1893, which more specifically refer to the composition of the Commission of Arbitrators, shall regain full validity once the effects of the Commercial Declaration of 5 July last have ceased.

Whilst begging that Your Excellency sees fit to let me know if His Majesty's Most Faithful Government agrees with this proposal, I take this opportunity to reiterate [to Your Excellency] my best intentions at all times

Carel van Heeckeren

**Lisbon, 9 February 1895,**

Mr. Minister, Sir.-

In a note of today's date, Your Excellency saw fit to submit a proposal from your Government to me, for my perusal, regarding the composition of the arbitral commission resulting from the latest conventions concluded between Portugal and The Netherlands.

Although the provisions of our Commercial Declaration of 5 July last do not detract from the principles of the Convention of 10 June 1895, nor those of the declaration of 1 June of the same year, concluded in Lisbon, with a view to regulating the colonial relations between both countries on the Timor-Solor Archipelago, His Majesty's most Faithful Government agrees to the setting up of all and any arbitral commission, to which recourse might be sought throughout the period of validity of the Commercial Convention of 5 July last, and by virtue of the stipulations of the 10 June Convention, or those of the Declaration of 1<sup>st</sup> July 1893, referred to above, shall consist of two arbitrators, who in the event of a difference of opinion arising, shall by joint agreement appoint a third, who shall decide.

It shall be hereby understood that the provisions of Article 7 of the above Commission of 10 June 1893, which more specifically refer to the composition of the Commission of Arbitrators, shall regain full validity once the effects of the Commercial Declaration of 5 July last have ceased.

I take this opportunity,....etc.

## **Appendix G**

*Translation of Portuguese text.*

### **An Agreement by Exchange of Diplomatic Notes, of 8 October and 27 December 1897, Relevant to the Demarcation of the Portuguese and Dutch Dominions on the Island of Timor**

#### **Diplomatic note from the Portuguese Government, Lisbon, 8 October 1897,**

In reply to the Note which Your Lordship was good enough to send me on 31 July last, I have the honour to inform you that His Majesty's Government, in order to comply in full with the stipulations of the Convention held in Lisbon on 10 June 1893 regarding the demarcation of the Portuguese and Dutch territories on the Island of Timor, that it agrees as follows:

1. A six-member commission (three being appointed by Portugal and three by The Netherlands) shall be responsible for drawing up an ordnance survey map of the borders between the Portuguese and Dutch dominions on the Island of Timor, in compliance with the Clauses of the Demarcation treaty signed in Lisbon on 20 April 1859.
2. The commission referred to shall submit the necessary projects, for approval by both governments, with a view to reaching an agreement regarding the territories of either of the two countries enclaved within the territories belonging to the other country;
3. The Commission shall therefore carefully refrain from any act that might prejudice the decisions taken by the two governments;
4. The Commission shall start work as soon as the Higher Authorities of the two countries in Timor have set the venue and date for the meeting;
5. The Commissioners shall be invested with the full powers required in order to carry out their mission;
6. In the minutes or protocols that they shall draw up, the Commissioners shall note the usual alternation. The documents referred to shall be written in French;
7. Once the borders have been delimited and demarcated, the two governments shall agree as to the measures required in order to, as far as possible, prevent the importation via the borders of the respective dominions, of banned goods, and chiefly Opium;
8. A third power shall not be recognised as having the right to set up maritime bases or coal depots on the Timor Archipelago;
9. Instructions shall be sent to all Timor's Maritime Authorities, necessary to ensure that the native fishermen and traders of both countries, who, for the purposes of putting into port or trading, should call at the ports, be granted the protection to which they are entitled, in compliance with the laws and treaties in force; if for any reason, the said Authorities should be forced to arrest the said fishermen or native traders, or to impound their cargoes, the Higher Authorities on the Island of Timor shall be notified immediately regarding the country to which the said native fishermen or traders belong.

Since the stipulations outlined above are identical to those which Your Lordship proposed in the Diplomatic Note to which I have the honour to reply, I assume that the Government of Her Majesty The Queen of The Netherlands shall have no difficulty in accepting them, whereby the Agreement is brought to a close, once Your Lordship should notify me of the final accession by your Government, regarding the stipulations referred to.

I take this opportunity,....etc.,.....Matías de Carvalho e Vasconcelos.

**Lisbon, 27 December 1897,**

Minister, Sir.

- His Excellency the Minister of Foreign Affairs to Her Majesty The Queen of The Netherlands, requests me to inform Your Excellency with regard to the complete accession of Her Majesty's Government to the Agreement relevant to Timor, as inserted in the Diplomatic Note from Your Excellency's predecessor, on 8 October last.

The Agreement is as follows:

[Translated into Dutch, provisions 1 to 9, which consist of the Note from the Portuguese Government, dated 8 October, now follow]:

In compliance with the proposal submitted by Your Excellency's predecessor, at the end of the Note referred to, the Agreement mentioned above comes into force forthwith.

Having accepted.....etc., .....Carel van Heeckeren.

## Appendix H

*Translation of Portuguese text.*

### Convention for the Demarcation of Portuguese and Dutch Dominions on the Island of Timor

Signed in the Hague on 1 October 1904, in which ratifications were exchanged on 29 August 1908.

#### Article I

The Netherlands hereby cede Maucatar to Portugal.

#### Article II

Portugal hereby cedes Noimutu, Tahakay and Tamiru Ailala to The Netherlands.

#### Article III

The boundary between O'Kussi and Ambeno belongs to Portugal and the Dutch dominions on the Island of Timor are formed by a line:

1. Proceeding from the mouth of the Noel [river] Besi, from where the summit of Pulu [island] Batek can be sighted, on a 30°47'NW astronomical azimuth, following the *thalweg* of the Noel Besi, that of the Noel Niema and of the Bidjael Sunan, up to its source;
2. Climbing from there up to the Bidjael Sunan summit, and descending by the Noel Miu Mavo *thalweg*, to the point situated to the South-West of the town of Oben;
3. From there, crossing to the West of this town through the summits of Banat and Kita up to the summit of Nivo Nun Po; from there, following the *thalweg* of the rivers Nono Boni and Noel Pasab, to its tributary, Nono Susu, and climbing to Nono Susu as far as its source;
4. Passing Klus (Crus) to the point at which the border between Albani and Nai Bobbo crosses the River Fatu Basin, and from there to the point called Subina.
5. Immediately descending via the Fatu Basin *thalweg* as far as Ké An, and thence up to the Nai Não;
6. Passing the Nai Não and descending to the Tut Nonic via the Tut Nonic *thalweg* as far as Noel Ekan;
7. Following the Noel Ekan *thalweg* as far as the tributary Sonau, via the *thalweg* of this tributary up to its source, and from that point to the River Nivo Nono;
8. Climbing via the *thalweg* of this river up to its source, to reach the source of the Nono Balena, by passing the point known as Ohoc Baki;
9. Following the *thalweg* of this river, those of Nono Nisé and the Noel Bilomi as far as the tributary of the latter, the Oé Sunan;
10. From this point onwards, the boundary follows the *thalweg* of the Oé Sunan, as far as is possible it crosses Nipani and Kelali (Keli), reaches the source of the Noel Meto and follows the *thalweg* of this river up to its estuary.

#### **Article IV**

The part of the boundary between O’Kussi Ambeno and the Dutch territories, to which Article 3, Clause 10 refers, shall be measured and marked out on the territory at the earliest opportunity.

The surveying of this section and the demarcation of the terrain shall be authenticated by means of an Accord accompanied by a map, to be prepared in duplicate, which shall be submitted for the approval of the Higher contracting Parties; following their approval, these documents shall be signed on behalf of the respective governments.

The Higher contracting Parties, only subsequent to the signing of these documents, shall assume the sovereignty of the regions referred to in Articles I and II.

#### **Article V**

The boundary between the dominions of The Netherlands in the western sector and those of Portugal in the eastern sector of the Island of Timor shall be a line running from North to South:

1. Starting from the mouth of the Mota Biku (Silaba) via the *thalweg* of this river up to its tributary, the We Bedain, via the *thalweg* of the We Bedain, as far as the Mota Asudaät (Assudat), via the *thalweg* of this river as far as its source, and from that point following the slopes of Kleek Teruin (Klin Teruin) in a North-South direction, and of the Berenis (Birenes) Kakótun;
2. Afterwards, as far as the River Muda Sorun, following the *thalweg* of this river, and that of the Tuah Naruk, as far as the River Telau (Talau).
3. Following the *thalweg* of the Telau as far as the River Malibaka, via the *thalweg* of this river, and those of the Mautilu and Pepies, as far as the Bulu Hulu (Bulu Bulu) Mountain:
4. From that point, up to the Karawa Kotun: from the Karawa Kotun via the *thalweg* of the River Marecs (Lolu), as far as the River Tafara, via the *thalweg* of this river as far as its source, known as Mota Tiborok (Tibor), and from there climbing to the summit of Dato Miet and descending to the Mota Alun.;
5. Via the *thalweg* of the Mota Alun and those of the Mota Sukaer (Sukar) and the Mota Baukama, as far as the tributary of the latter, known as Kalan-Fehan;
6. Passing through the mountains Tahi Fehu, Fatu Suta, Fatu Rusa, the large tree known as Halifca, the summit of Uas Lulik, afterwards crossing the River We Merak, at the point at which its tributary, the We Nu, joins it, subsequently passing the great rock known as Fatu Rokou, the summits of Fitun Monu, Debu Kasabauk, Ainin Matan and Lak Fuin.
7. From the Lak Fuin as far as the point at which the Hali Sobuk drains into the Mota Haliboli, and via the *thalweg* of this river as far as its source;
8. From this source, as far as that of the Mota Bebulu, via the *thalweg* of this river as far as the We Dick, climbing to the summits of the Ai Kakar and Takis, descending to the Mota Masin and following the *thalweg* of the Mota Masin and of its mouth, known as Mota Talas.

#### **Article VI**

With the exceptions of the provisions of Article IV, the boundaries described in Articles III and V, have been traced on the maps attached<sup>1</sup> to the present Convention and signed by the respective Plenipotentiaries.

**Article VII**

The territories respectively ceded shall be evacuated and their administration shall be handed over to the relevant jurisdictional authorities within six months, w.e.f. the approval of the Accord referred to in Article IV.

**Article VIII**

The archives, maps and other documents relating to the territories handed over shall be delivered to the new Authorities at the same time as the territories themselves.

**Article IX**

Navigation on rivers that form boundaries shall be available to the subjects of the two Higher contracting Parties, except for the transport of weapons and ammunition.

**Article X**

For the occasion of the hand-over of the ceded territories, stone commemorative plaques shall be solemnly erected at a suitable spot on the coastline, close to the mouth of the rivers referred to earlier showing the year of the present Convention, which should be of shapes and sizes to suit the purpose for which they are intended. The Dutch plaques shall be set up on the western banks of the rivers Mota Biku and Mota Masin and those of the Portuguese on the eastern banks of the said rivers. The four stone plaques shall be provided by the Dutch Government at the expense of both governments, and the Dutch Government shall place a Royal Navy vessel at the disposal of the respective authorities for the purpose of the solemn hand-over of the ceded territories and for the emplacement of the plaques.

Moreover, the section of the border not formed by natural boundaries, shall be demarcated on the terrain, by common agreement between the Local Authorities.

**Article XI**

Save for the provisions of Article IV, an Accord shall be drawn up in French, recording the hand-over of the territories and the erection of the plaques. The accords shall be drawn up in duplicate and signed by the respective authorities of both countries.

**Article XII**

Freedom of religion is guaranteed, by both sides, to the inhabitants of the territories exchanged by means of the present Convention.

**Article XIII**

The Higher contracting Parties mutually recognise in each other, in the event of a hand-over, whether of a part or of the whole of their territories or of their sovereign rights, on the Timor-Solor Archipelago, the right of preference, on terms similar, or equivalent, to those they were offered.

**Article XIV**

Should any issues or deviations regarding the interpretation or execution of the present Convention fail to be settled amicably, they shall be submitted to a standing arbitrational tribunal, in compliance with the stipulations of Chapter II of the international Convention of 29 July 1899 for the peaceful resolution of international conflicts.

**Article XV**

The present Convention shall be ratified, and the ratifications shall be exchanged as soon as possible, following approval by the legislative authorities of both countries.

In witness whereof, the respective Plenipotentiaries signed the present Convention and appended their seals to them.

Processed in duplicate, in The Hague, on 1 October 1904.

## **Appendix I**

*Translation of Portuguese text.*

### **A Convention for the Purpose of Submitting a Dispute arising out of the Boundary Delimitation of the Portuguese and Dutch Dominions on the Island of Timor for Arbitration**

Signed in the Hague on 3 April 1913, where ratifications were exchanged on 30<sup>th</sup> July the same year.

The President of the Portuguese Republic and Her Majesty The Queen of The Netherlands, deeming that the execution of the Convention held by Portugal and The Netherlands in The Hague on 1<sup>st</sup> October 1904, concerning the boundary-delimitation of the Portuguese and Dutch dominions on the Island of Timor, had brought about a dispute with regard to the surveying of the sector of the boundary shown in Article III, Clause 10 of this Convention:

in wishing to put an end to the dispute on amicable terms;

having witnessed Articles XIV of the said Convention and Article XXXVIII of the Convention for the Peaceful Settlement of International Conflicts which took place in The Hague on 18 October 1907,

appointed their Plenipotentiaries, namely:

The President of the Portuguese Republic: [appointed] His Excellency Senhor Antonio María Bartolomeu Ferreira, Envoy Extraordinary and Minister Plenipotentiary to The Hague;

Her Majesty The Queen of The Netherlands: [appointed] His Excellency, Herr Jonkheer de Marees van Swinderen, Her [Majesty's] Chamberlain, Her [Majesty's] Minister of Foreign Affairs;

Who, duly authorised for this purpose, agreed as to the following Articles:

#### **Article I**

The Government of the Portuguese Republic and the Government of Her Majesty The Queen of The Netherlands agree to submit the dispute mentioned above to a single Arbitrator, to be selected from among the members of the Standing Arbitration Tribunal.

Should the two governments fail to reach an agreement with regard to the selection of such an Arbitrator, they must send a request to the President of the Swiss Confederation, that he might appoint one.

#### **Article II**

The Arbitrator, in establishing statutes regarding the data provided by the Parties of Both Parts, shall reach his decisions on the basis of treaties and the general principles of International Law, as to how the boundary-delimitation from Noël Belomi to the source of the Noël Meto, shall be established, in compliance with the regulations laid out in Article III, Clause 10 of the Convention held in The Hague on 1<sup>st</sup> October 1904, relating to the Portuguese and Dutch dominions on the Island of Timor.

Each of the Parts shall send the Arbitrator, through the mediation of the International Bureau of the Standing Arbitration Tribunal, within a period of 3 months following the exchange of the ratifications of the present Convention, a memorandum containing the statement of his rights and the documentary evidence, and shall immediately send a true copy to the other Part.

On the expiry of the above-mentioned period, each of the Parts shall have a fresh 3-month period in which to forward to the Arbitrator a second memorandum via the mediating concern referred to above, should the latter deem it useful to do so, of which it shall send a true copy to the other Part.

The Arbitrator is authorised to grant to each of the Parts who should request it, a deferment of two months, with regard to the deadlines referred to in this Article. He shall notify the other parts as to each deferment.

#### **Article IV**

After the exchange of these memoranda, no communications, neither written nor verbal, shall be addressed to the Arbitrator, unless the latter should contact the Parties of Both Parts, in order to obtain from them, or from one of them, further clarifications in writing.

The part providing such clarifications shall immediately forward a true copy to the other Part, and the latter will have the right, should it see fit, within a period of two months with effect from receipt of this copy, to inform the Arbitrator in writing regarding the observations to which the clarifications may give rise. These observations shall, likewise, be immediately forwarded, in the form of a true copy, to the other Part.

#### **Article V**

The arbitrator shall perform his duties at a location of his choice.

#### **Article VI**

The Arbitrator shall make use of the French language, both for the judgement and in any communications which he may require to send to the Parties of Both Parts throughout the course of the proceedings. Memoranda and other communications originated by the parties of Both Parts shall be written in this language.

#### **Article VII**

The Arbitrator shall decide regarding all issues which might emerge in relation to the proceedings throughout the course of the litigation.

#### **Article VIII**

Immediately after the ratification of the present Convention, each of the Parts shall hand the Arbitrator an amount of two-thousand francs, in respect of process-preparation costs.

#### **Article IX**

The Arbitrator shall notify the Parties of Both Parts in writing, regarding details of the judgement.

It [the judgement] shall be well-founded.

In the course of his judgement, the Arbitrator shall fix the amount of the legal costs. Each of the Parts shall cover its own costs, plus an equal share of the said legal costs.

#### **Article X**

The Parties of Both Parts undertake to accept, in terms of a final appeal judgement, the decision pronounced by the Arbitrator, within the limitations of the present Convention, and shall execute same without any reservations.

Any disputes relating to the said execution shall be submitted to the Arbitrator.

**Article XI**

This Convention shall be ratified, and shall come into force immediately following the exchange of ratifications to take place in The Hague at the earliest available opportunity.

In witness whereof, the respective Plenipotentiaries signed, and appended their seals to, the present Convention.

Processed in duplicate in The Hague, on 3 April 1913.

## Appendix J

### **Permanent Court of Arbitration, Arbitral Award Rendered in Execution of the Compromis Signed at the Hague, April 3, 1913, between the Netherlands and Portugal concerning the subject of the Boundary of a part of their Possessions in the Island of Timor**

Paris, 25 June 1914

A dispute having arisen between the Royal Government of the Netherlands and that of the Portuguese Republic concerning the subject of the boundary of a part of their possessions in the island of Timor, the two governments, by a convention signed at The Hague, April 3, 1913, of which ratifications were exchanged in the same city on July 31 following, decided as a last resort to refer its solution to an arbitrator, and accordingly by common accord designated the undersigned.

.....

### **AWARD**

Article 3, Number 10, of the convention concluded at The Hague, October 1, 1904, concerning the boundary of the Dutch and Portuguese possessions in the Island of Timor, ought to be interpreted conformably with the conclusions of the Royal Government of The Netherlands for the boundary, starting from the Noel Bilomi, as far as the source of the Noel Meto; consequently it will proceed to the survey of that part of the frontier on the basis of the map scaled at 1/50,000 annexed under No.IV of the first Case deposited with the arbitrator by the Dutch Government. A reproduction of this map signed by the arbitrator is appended as annex VII to the present award of which it shall be an integral part.

Expenses, fixed at 2,000 francs, have been deducted from the sum of 4,000 francs consigned to the hands of the arbitrator in execution of Art. 8 of the *compromis* of April 3, 1913; the remainder, or 2,000 francs, shall be remitted in equal shares to the two parties, and receipted, at the moment of the notification of the award.

Done in three originals, of which one shall be deposited and receipt therefore taken by M. the Secretary General of the International Bureau of the Permanent Court of Arbitration at The Hague, with His Excellency the Minister of Foreign Affairs of The Netherlands as notification to the Royal Government of the Netherlands, and of which the second shall be deposited on the same day and in the same form with His Excellency the Envoy Extraordinary and Minister Plenipotentiary of the Portuguese Republic near H.M. the Queen of the Netherlands, as notification to the Government of the Portuguese Republic. The third original shall be deposited in the archives of the International Bureau of the Permanent Court of Arbitration.

Lardy  
Paris, June 26<sup>th</sup> 1914.

## Appendix K

### Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries

Done at Canberra, 18 May 1971.  
(excerpts)

*The Government of the Commonwealth of Australia and the Government of the Republic of Indonesia,*

Desiring to strengthen the bonds of friendship between the two countries, and

Desiring particularly to cooperate in delimiting by agreement the boundaries of certain areas of seabed in which the two countries respectively exercise sovereign rights for the exploration and exploitation of the natural resources,

*Have agreed as follows:*

#### Article 1

In the Arafura Sea eastwards of longitude 133° 23' East, the boundary between the area of seabed that is adjacent to and appertains to the Commonwealth of Australia and the area that is adjacent to and appertains to the Republic of Indonesia shall be the straight lines shown on chart 'A' annexed to this Agreement, commencing at the point of Latitude 9° 52' South, Longitude 140° 29' East (Point A1), and thence connecting the points specified hereunder in the sequence so specified:

A2.	The point of Latitude	10° 24' South,	Longitude 139° 46' East
A3.	The point of Latitude	10° 50' South,	Longitude 139° 12' East
A4.	The point of Latitude	10° 24' South,	Longitude 138° 38' East
A5.	The point of Latitude	10° 22' South,	Longitude 138° 35' East
A6.	The point of Latitude	10° 09' South,	Longitude 138° 13' East
A7.	The point of Latitude	09° 57' South,	Longitude 137° 45' East
A8.	The point of Latitude	09° 08' South,	Longitude 135° 29' East
A9.	The point of Latitude	09° 17' South,	Longitude 135° 13' East
A10.	The point of Latitude	09° 22' South,	Longitude 135° 03' East
A11.	The point of Latitude	09° 25' South,	Longitude 134° 50' East
A12.	The point of Latitude	08° 53' South,	Longitude 133° 23' East

#### Article 2

The two Governments have not provided in this agreement for the delimitation of the respective areas of the adjacent seabed westward of Longitude 133° 23' East, and have left this question for discussion at further talks to be held at a mutually convenient date.

.....

## Appendix L

### **Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas – Supplementary to the Agreement of May, 1971**

Done at Jakarta, 9 October 1972.

(excerpts)

*The Government of the Commonwealth of Australia and the Government of the Republic of Indonesia.*

Recalling the Agreement between the two Governments, signed on the eighteenth day of May one thousand nine hundred and seventy-one, established seabed boundaries in the Arafura Sea and in certain areas off the coast of the Island of New Guinea (Irian),

Recalling further that in the Aforesaid Agreement the two Governments left for later discussion the question of the delimitation of the respective areas of Adjacent Seabed in the Arafura and Timor Seas westward of Longitude 133 degrees 23' East,

Resolving, as good neighbours and in the spirit of cooperation and friendship to settle permanently the limits of the areas referred to in the preceding paragraph within which the respective governments shall exercise sovereign rights with respect to the exploration of the Seabed and the exploration of the natural resources,

*Have agreed as follows:*

#### **Article 1**

In the area to the south of the Tanimbar Islands, the boundary between the area of Seabed that is adjacent to and appertains to the Commonwealth of Australia and the area of Seabed that is adjacent to and appertains to the Republic of Indonesia shall be the straight lines shown on the chart annexed to this agreement commencing at the point of Latitude 8 degrees 53' south, Longitude 133 degrees 23' East (Point A 12, specified in the agreement between the two countries dated the eighteenth day of May one thousand nine hundred and seventy-one), thence connecting in a westerly direction the points specified hereunder in the sequence so specified:

A 13	The point of Latitude 8 degrees 54' south,	Longitude 133 degrees 14' east
A 14	The point of Latitude 9 degrees 25' south,	Longitude 130 degrees 10' east
A 15	The point of Latitude 9 degrees 25' south,	Longitude 128 degrees 00' east
A 16	The point of Latitude 9 degrees 28' south,	Longitude 127 degrees 56' east

#### **Article 2**

In the area south of Roti and Timor islands, the boundary between the area of Seabed that is adjacent to and appertains to the Commonwealth of Australia and the area of Seabed that is adjacent to and appertains to the Republic of Indonesia shall be the straight lines shown on the chart annexed to this agreement commencing at the point of Latitude 10 degrees 28' south, longitude 126 degrees 00' east (Point A 17), and thence connecting in a westerly direction the points specified hereunder in the sequence so specified:

A 18	The point of Latitude 10 degrees 37' south,	Longitude 125 degrees 41' east
A 19	The point of Latitude 11 degrees 01' south,	Longitude 125 degrees 19' east
A 20	The point of Latitude 11 degrees 07' south,	Longitude 124 degrees 34' east
A 21	The point of Latitude 11 degrees 25' south,	Longitude 124 degrees 10' east
A 22	The point of Latitude 11 degrees 26' south,	Longitude 124 degrees 00' east
A 23	The point of Latitude 11 degrees 28' south,	Longitude 123 degrees 40' east
A 24	The point of Latitude 11 degrees 23' south,	Longitude 123 degrees 26' east
A 25	The point of Latitude 11 degrees 35' south,	Longitude 123 degrees 14' east

**Article 3**

The lines between points A15 and A16 and between points A17 and A18 referred to in Article 1 and Article 2 respectively, indicate the direction of those portions of the boundary, in the event of any further delimitation agreement or agreements being concluded between governments exercising sovereign rights with respect to the exploration of the seabed and the exploration of its natural resources in the area of the Timor Sea, the government of the Commonwealth of Australia and the government of the Republic of Indonesia shall consult each other with a view to agreeing on such adjustment or adjustments, if any, as may be necessary in those portions of the boundary lines between points A15 and A16 and between points A17 and A18.

.....

## Appendix M

### **Agreement between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia**

Done over the Zone of Cooperation, 11 December 1989.  
(excerpts)

*Australia and the Republic of Indonesia*

*Taking into account* the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982 and, in particular, Article 83 which requires States with opposite coasts, in a spirit of understanding and cooperation, to make every effort to enter into provisional arrangements of a practical nature which do not jeopardise or hamper the reaching of final agreement on the delimitation of the continental shelf;

*Desiring* to enable the exploration for and exploitation of the petroleum resources of the continental shelf of the area between the Indonesian Province of East Timor and northern Australia yet to be the subject of permanent continental shelf delimitation between the Contracting States;

*Conscious* of the need to encourage and promote development of the petroleum resources of the area;

*Desiring* that exploration for and exploitation of these resources proceed without delay;

*Affirming* existing agreements on the delimitation of the continental shelf between their two countries;

*Determined* to cooperate further for the mutual benefit of their peoples in the development of the resources of the area of the continental shelf yet to be the subject of permanent continental shelf delimitation between their two countries;

*Fully committed* to maintaining, renewing and further strengthening the mutual respect, friendship and cooperation between their two countries through existing agreements and arrangements, as well as their policies of promoting constructive neighbourly cooperation;

*Mindful* of the interests which their countries share as immediate neighbours, and in a spirit of cooperation, friendship and goodwill;

*Convinced* that this treaty will contribute to the strengthening of the relations between their two countries; and

*Believing* that the establishment of joint arrangements to permit the exploration for and exploitation of petroleum resources in the area will further augment the range of contact and cooperation between the Governments of the two countries and benefit the development of contacts between their peoples;

*Have agreed as follows:*

**PART 1**  
**Zone of Cooperation**

.....

**Article 2**  
**The Zone**

1. A Zone of Cooperation is hereby designated in an area between the Indonesian Province of East Timor and northern Australia, which comprises Areas A, B and C.
2. Within the Zone of Cooperation activities in relation to the exploration for and exploitation of petroleum resources shall be conducted on the following basis:
  - (a) In Area A, there shall be joint control by the Contracting States of the the exploration for and exploitation of petroleum resources, aimed at achieving optimum commercial utilisation thereof, and equal sharing between the two Contracting States of the benefits of the exploitation of petroleum resources, as provided for in this Treaty;
  - (b) In Area B, Australia shall make certain notifications and share with the Republic of Indonesia Resource Rent Tax collections arising from petroleum production on the basis of Article 4 of this Treaty; and
  - (c) In Area C, the Republic of Indonesia shall make certain notifications and share with Australia Contractors' Income Tax collections arising from from petroleum production on the basis of Article 4 of this Treaty.
3. Nothing contained in this Treaty and no acts or activities taking place while this Treaty is in force shall be interpreted as prejudicing the position of either Contracting State on a permanent continental shelf delimitation in the Zone of Cooperation nor shall anything contained in it be considered as affecting the respective sovereign rights claimed by each Contracting State in the Zone of Cooperation.
4. Notwithstanding the conclusion of this Treaty, the Contracting States shall continue their efforts to reach agreement on a permanent continental shelf delimitation in the Zone of Cooperation.

**PART II**  
**Exploration and Exploitation in the Zone of Cooperation**

**Article 3**  
**Area A**

1. In relation to the exploration for and exploitation of petroleum resources in Area A, the rights and responsibilities of the two Contracting States shall be exercised by the Ministerial Council and the Joint Authority in accordance with this Treaty. Petroleum operations in Area A shall be carried out through production sharing contracts.
2. The Joint Authority shall enter into each production sharing contract with limited liability corporations specifically established for the sole purpose of the contract. The provision shall also apply to the successors or assignees of such corporations.

**Article 4**  
**Area B and Area C**

1. In relation to the exploration for and exploitation of petroleum resources in Area B Australia shall:
    - (a) notify the Republic of Indonesia of the grant, renewal, surrender, expiry and cancellation of titles made by Australia being exploration permits, retention leases and production licences; and
    - (b) pay to the Republic of Indonesia ten (10) per cent of gross Resource Rent Tax collected by Australia from corporations producing petroleum from Area B equivalent to sixteen (16) per cent of net Resource Rent Tax collected, calculated on the basis that general company tax is payable at the maximum rate.
  
  2. In relation to the exploration for and exploitation of petroleum resources in Area C the Republic of Indonesia shall:
    - (a) notify Australia of the grant, renewal, surrender, expiry and cancellation of titles made by the Republic of Indonesia; and
    - (c) pay to Australia ten (10) per cent of Contractors' Income Tax collected by the Republic of Indonesia from corporations producing petroleum from Area C.
- .....

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## **Internet Sites**

The Internet sites listed below are a selection of sites that are relevant to the subject boundary and to the states involved. This is by no means a comprehensive listing, and the search carried out reflects the availability and content of sites in December 1999.

**Solidamor**      <http://www.solidamor.org/english/english.html>

Solidamor (Solidarity for peace in East Timor) is an Indonesian website that has links to a wide variety of other sites. The main pages contain news stories from the island of Timor, and there are links to INTERFET, UNAMET and other relevant sites. Items include photographs of the INTERFET and UNAMET operations, and details of the composition and aims of these missions. There are also a number of maps of the island. This is by far the most valuable of the sites visited.

**The Age**      <http://www.theage.com.au/special/asiaonline/timor/index.html>

The Age is an Australian daily broadsheet newspaper that is published as an Internet edition. All Timor articles that have been published within this source can be referenced through the Timor index page, the address of which is given above. Articles are written from an Australian perspective, and many refer to Australian-Indonesian relations.

**Loro Sae – Timor**      <http://www.geocities.com/CaptitolHill/9627/>

Loro Sae – Timor Home Page is provided via ‘geocities’ and contains many links to other pages and sites that deal with the issues surrounding East Timor. There are several photo sites, including a space image of Timor provided by NASA. The site is heavily pro-East Timor, and the user is confronted with photographs of alleged torture of East Timorese civilians, as well as other propaganda items.

**TimorNet**      <http://www.uc.pt/Timor/netret.htm>

TimorNet is a collection of Internet resources that deal with the East Timor situation. There exist a wide range of links, for example to United Nations documents, Portuguese sites, Indonesian sites, newsgroups & news archives and background information. This is a useful site for general information from a variety of sources. This site has been provided by the University of Coimbra, Portugal.

**UNAMET**      <http://www.un.org/peace/etimor/index.htm>

The UNAMET site is provided by the United Nations, and covers a wide range of issues relating to East Timor, and the work of the international community in policing the referendum vote. Ballot information, photos, press briefings, facts and news items are all available on this site.

**Timor Today**      <http://www.easttimor.com/>

Timor Today is produced by the East Timor International Support Centre in Darwin, Australia. It contains background information; news items; links to other sites and information on the Australian-led INTERFET mission.