# Australian government dismisses international law in The Hague over Timorese oil theft

**Patrick Kelly**
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The Australian government's contempt for international law was again on display last week as it rejected the authority of the Permanent Court of Arbitration (PCA) in The Hague to conciliate an agreed maritime border between Australia and East Timor.

The legal case underscores Australian imperialism's staggering hypocrisy. It has joined Washington in publicly demanding that China recognise and abide by a PCA ruling issued last July in favour of the Philippines' challenge to Chinese maritime claims in the South China Sea.

The Philippines' case was prepared with US assistance to bolster Washington's militarist campaign to maintain its geostrategic dominance in East Asia against the threat posed by Beijing, yet the Australian government endorsed it as a legitimate exercise in international law.

However, when it comes to another disputed maritime border—in the Timor Sea, just 2,000 kilometres from the South China Sea—Canberra maintains that the PCA is an illegitimate tribunal.

In 2002, the Australian government declared it would not abide by any International Court of Justice ruling on maritime boundaries, nor accept the procedures on disputed boundaries under the United Nations Convention on the Law of the Sea (UNCLOS).

These moves were made on the eve of East Timor's declaration of independence and were transparently aimed at securing Australian control over the lion's share of the oil and gas reserves in the Timor Sea. Canberra had previously supported the 1975 invasion of the former Portuguese colony by General Suharto's Indonesian military regime, later negotiating a lucrative deal that carved up Timor's energy wealth between Australia and Indonesia.

In 1999, a year after Suharto was removed from power, Canberra launched a bogus "humanitarian intervention," deploying troops to East Timor to oversee the transition to nominal independence, while maintaining its dominance over the Timor Sea. This was secured through subsequent treaties negotiated between Dili and Canberra, accompanied by overt Australian bullying and blatant dirty tricks.

East Timor is now challenging the legitimacy of the 2006 treaty known as CMATS (Certain Maritime Arrangements in the Timor Sea). It has invoked a never-before-used UNCLOS compulsory conciliation clause. This involves a five-member PCA panel, chaired by former Dutch diplomat and UN jurist Peter Taksøe-Jensen, hearing the rival Australian and Timorese claims and issuing a non-binding finding that is supposed to form the basis of a negotiated settlement.

The conciliation commission heard the rival submissions over several days last week, mostly behind closed doors but with the opening presentations delivered in a public hearing on August 29.

The Australian government's legal team began by contesting the "competence of the commission" to hear the case.

Department of Foreign Affairs and Trade (DFAT) deputy secretary Gary Quinlan declared there was "no proper basis" for East Timor "to bring this claim." He insisted that doing so "violates treaty commitments … under which both countries have committed not to bring proceedings against each other on maritime boundaries."

Quinlan claimed that Canberra was "motivated by a serious regard for principle … at a time when the rules-

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based order globally is under serious challenge, it is vital that countries stand by their treaty commitments." For good measure, he concluded by chiding East Timor that "it is not a mark of good neighbourliness to initiate a compulsory procedure in breach of your own treaty commitments to that neighbour."

This talk of "principles," "rules-based orders" and "good neighbourliness" is nothing short of obscene in the context of Australian imperialism's predatory relationship with East Timor. The treaties that the Australian government now maintains are sacrosanct were delivered through threats and provocations.

In November 2002, then Australian Foreign Minister Alexander Downer met with then Timorese Prime Minister Mari Alkatiri. Downer demanded that the Timorese drop their demand for an equidistant maritime border between the two countries, consistent with international law, and threatened to sabotage the Bayu-Undan gas field that has since provided 95 percent of total Timorese government revenue.

"If you want to make money, you should conclude an agreement quickly," Downer declared. "We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics—not a chance."

This mafioso performance was followed in 2004 by an illegal Australian intelligence operation to bug Timorese government offices, under the cover of a humanitarian construction program. The intelligence gathered was used in the lead up to the finalisation of the CMATS treaty.

Royalties from the massive, as yet undeveloped, Greater Sunrise oil and gas fields were to be split 50-50 between East Timor and Australia, with the setting of a maritime border postponed for 50 years. The arrangement was a blatant theft. Under international legal norms governing maritime boundaries, Australia's claim of Greater Sunrise would likely be less than 20 percent.

East Timor's legal team at The Hague was led by Xanana Gusmão, a former president and prime minister, who now serves as the country's investment minister and chief Timor Sea negotiator.

Gusmão said "the achievement of maritime boundaries in accordance with international law is a matter of national sovereignty and the sustainability of our country." In the period immediately after independence, East Timor was "vulnerable to duress and exploitation." Because the government was "desperate for revenue to rebuild our country from ruins, we succumbed to Australia's pressure and signed the CMATS treaty."

Gusmão and other Timorese representatives argued that the 2004 spying operation rendered the treaty invalid.

While there is little question that international law is on the side of the East Timorese, the case in The Hague has inadvertently shed light on the desperate manoeuvres of the impoverished country's government.

Dili does not require the PCA to overturn CMATS—the treaty itself contains provisions for either party to withdraw from it. Rather, the East Timor government wants to use the legal proceedings to put pressure on Canberra for concessions, while at the same time reassuring energy companies of profitable returns on investment.

As Timorese representatives before the conciliation commission explained, the government wants to coordinate a new treaty with Australia in order to "ensure a smooth transition for the benefit of both states, and also of the petroleum industry."

The Hague court also heard that Timorese government ministers had in the past month travelled to oil and gas company headquarters in Australia and the US, "to see their senior executives personally to explain the situation and to seek their views … those visits have been very well received and we are working on a post-[CMATS] termination plan to meet the investors' requirements."

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