



**Address by His Excellency the Minister for Planning and  
Strategic Investment and  
Chief Negotiator on Maritime Boundaries,  
Kay Rala Xanana Gusmão, at the Compulsory Conciliation  
Proceedings at the Peace Palace at The Hague**

**The Hague, Netherlands  
29 August 2016**

Mr. Chairman,

Members of the Commission,

I would like to thank you for the opportunity to appear before you on behalf of the Government and People of Timor-Leste. We greatly appreciate your commitment to assist in settling the long running dispute between Timor-Leste and Australia, concerning the maritime boundary in the Timor Sea.

Mr. Chairman, the Independence of the Democratic Republic of Timor-Leste was restored in May 2002. Timor-Leste became the 191st member of the United Nations in September 2002. But our story goes back long before that.

Legend has it that the Timorese are the grandchildren of the crocodile. The body of our spirit ancestor became the land of Timor-Leste – his lumpy back forming the mountains and valleys that our people have been living on for hundreds of years. The surrounding waters were the habitat of our grandfather crocodile and they have sustained us and are integral to our livelihoods, culture and way of life.

The Timorese people governed themselves before being colonized by Portugal in the 1500s, a process that brought Portuguese culture, religion and language to Timor-Leste.

After the Dutch colonized Indonesia, the island of Timor was divided in two, with the eastern part administered by Portugal.

During the Second World War, despite Portugal's neutrality, Australian soldiers arrived in what was then known as Portuguese Timor

to halt the Japanese advance towards Australia. Over three years of war, more than 50,000 of our people were killed or died of disease and starvation. Throughout this difficult time, close bonds of friendship were formed between many Timorese and the Australian soldiers, a legacy of solidarity that both countries hold dear.

Following a failed process of decolonization, the colonial era came to an end on 28 November 1975 when FRETILIN declared the independence of Timor-Leste. Nine days later, Indonesia invaded our country.

Over the next 24 years, our people underwent a brutal occupation under the military dictatorship of the Indonesian Regime. Timorese died in the thousands, and those who survived suffered violence, intimidation and hunger.

A resilient few mounted a guerrilla campaign in the hills and valleys of our country to free our people from oppression. But the odds – and strong western powers – were against us. Australia twice closed down our only radio connection, in Darwin, to our supporters abroad. It was our own Agent in this matter, Mr Agio Pereira, who was using the radio from Northern Australia to contact us in the mountains of Timor.

Cut off from the outside world, little did we know that Australia gave formal recognition, in 1979, to Indonesia's illegal and brutal annexation of our country, in defiance of numerous United Nations Resolutions condemning the invasion and upholding the right of the Timorese to self-determination.

Australia, however, went a step further - in 1989, it entered into an illegal treaty with Indonesia to carve up the resources in the Timor Sea, with total disregard for our sovereignty and our right to self-determination, which at that very time we were fighting and dying for. The image of the Australian and Indonesian Foreign Ministers flying over the Timor Sea, while drinking champagne to celebrate the signing of the 'Timor Gap treaty' filled us with much sadness.

At the same time, it motivated us to continue our struggle. The treaty was challenged, by Portugal, before the International Court of Justice, but the Court was unable to act because Indonesia did not take part in the proceedings.

In accepting the sacrifices of our struggle, the determination of our people strengthened year after year, until our fight came to an end with the fall of the Indonesian Regime.

On 30 August 1999, our people voted overwhelmingly for independence in a United Nations sanctioned referendum, which was held precisely 17 years tomorrow. This led to violence by militias and a 'scorched earth' operation by the retreating Indonesian forces, causing yet more death and devastation. Our country was in ruins and burnt to the ground. Overall, the period of Indonesian occupation and its immediate aftermath led to more than 200,000 deaths, close to one third of our population. We recognize that, following this strife, Australia took the role of leading the United Nations peacekeeping troops to Timor-Leste, helping to restore peace and stability. We also understand the words of a past UK Prime Minister who said 'nations have no permanent friends or allies, they only have permanent interests.'

Members of the Commission,

Rising above our troubled past, we have reconciled with Indonesia, which has also been freed from the grip of dictatorship and is now, like Timor-Leste, a democracy. Today, our nations have become a global model of reconciliation and friendship; and we have begun discussions to delimit our maritime boundaries.

But Timor-Leste has yet to be completely freed from its past. While we are no longer oppressed, our sovereignty remains challenged. During the negotiations, under the UN Transitional Administration, we raised many times the need to discuss the maritime border issue, but Australia always showed an entire lack of interest to do so. Instead, two months before the restoration of our independence, in March 2002, Australia withdrew from the binding dispute resolution mechanisms under UNCLOS and at the International Court of Justice, specifically on maritime boundaries.

On the very day of the Restoration of our Independence, on 20 May 2002, the same country that supported the brutal occupation of our country, deprived us of the opportunity to exercise our full sovereignty. On that day we were faced with the indignity of having to sign the Timor Sea Treaty, the near mirror image of the 1989 Timor Gap Treaty.

Mr Chairman, Members of the Commission,

You must understand that, at the time, Timor had nothing. Our land was scorched, our people killed by the hundreds of thousands. We did not even have a government and it was only in September 2001 that an elected Constituent Assembly started to draw up our Constitution,

leading to the restoration of independence on 20 of May 2002. More than 70% of the infrastructure, including schools and hospitals were burnt.

We had no money, forcing us to beg, every six months, to the international community for funds just to sustain the UN Transitional Administration and some basic services. This situation made us vulnerable to duress and exploitation. Yes, we had advice from the UN and elsewhere, but given the history of the decades leading to the Restoration of Independence, we were entirely in their hands and in no position to take informed decisions of our own.

Thereafter, we wanted to negotiate a permanent maritime boundary with Australia based on international law – a median line. Australia, however, refused to enter into serious discussions on a maritime boundary.

Inexperienced in negotiations, ignorant of our rights and desperate for revenue to rebuild our country from the ruins, we succumbed to Australia's pressure and signed the CMATS Treaty to facilitate the development of the Greater Sunrise field.

What we were not aware of at the time was that, under the cover of an Australian Aid program renovating Timor-Leste Government offices, Australia used military intelligence capability to install listening devices to spy on the Timorese officials negotiating CMATS, in order to maximize their advantage and commercial interests.

When this came to light, we were shocked and appalled and I, myself, tried my best to persuade successive Australian Governments to

sit down at the table, as friends, to discuss the problem, in order to work towards a permanent maritime boundary agreement. In doing this, we avoided making it a public issue. However, their constant refusal gave us no other option, forcing us to begin the espionage arbitration.

We would have much preferred to negotiate our maritime boundary bilaterally with Australia. We have repeatedly asked Australia to come to the negotiating table. It has repeatedly refused. Now I should mention that the Australian Opposition has committed to negotiate a permanent boundary with Timor-Leste. But the fact remains that, even as recently as last month, the Australian Government has declined an invitation from Timor-Leste to negotiate.

Australia's refusal to negotiate maritime boundaries with us is difficult to explain. Australia's maritime areas are over 100 times greater than ours. Australia has the third largest maritime area in the world, with enormous resources and wealth. The area in question in the current dispute represents just 1.8% of Australia's maritime area. To add insult to injury, Australia has settled its maritime boundaries with all its neighbours, all but Timor-Leste.

Even today, Timor-Leste is willing, at any time, to submit our boundary dispute to an international tribunal or court. But, with its withdrawals, Australia turned its back on the law.

Members of the Commission, Timor-Leste remains grateful to the international community and the United Nations for assisting it to resume its independence. Our people have faith in international law and the international system. Even someone such as myself, without legal training and educated in the mountains and valleys of Timor-Leste and

in an Indonesian prison, understands that basic fairness and common sense – let alone international law – dictates that, the maritime boundary between two opposite countries should stand half-way between them. We have not come to The Hague to ask for favours or special treatment. We have come to seek our rights under international law.

That is how we find ourselves in front of you today. The story of our long struggle for sovereign rights over our seas is told in Timor-Leste's Policy Paper on Maritime Boundaries which, I am pleased to note, the Prime Minister is launching today in Dili. That Paper conveys the importance of maritime boundaries to our people and to the future of our nation.

Mr Chairman, Members of the Commission,

Timor-Leste has much to be proud of. We have consolidated a vibrant democracy with open markets and the rule of law. We have built the foundations of a successful State, secured peace and stability and enjoyed strong economic growth. Our Petroleum Fund handles every single dollar of our resources revenue with absolute transparency and accountability.

However, as a consequence of 500 years of colonization, followed immediately by 24 years of occupation, we remain poor. Timor-Leste has had to build its infrastructure from scratch. Our people have limited access to clean water and face some of the worst malnutrition rates in the world. We did not meet even one of the eight Millennium Development Goals. Nevertheless, the Timorese People, as before in our dark times, look to the future with hope and optimism.

Mr Chairman, Members of the Commission,

The achievement of maritime boundaries in accordance with international law is matter of national sovereignty and the sustainability of our country. It is Timor-Leste's top national priority.

So many Timorese people have fought and died for our sovereignty, people we still remember well - our brothers and sisters, our parents and children, our friends and our comrades. It saddens us still now to think of those times and the terrible sacrifices and choices that no person should ever have to make.

Securing our sovereign rights over our maritime areas will be the end of Timor-Leste's long struggle for sovereignty. We will then finally be able to enjoy, in peace and dignity, the rich and beautiful seas that are rightfully ours. Just as we fought so hard and suffered so much for our independence, we will not rest until we have secured sovereign rights over both sea and land.

Mr Chairman, Members of the Commission,

Timor-Leste looks to your Commission to assist the Parties to find a path towards agreement. We know that it will not be easy, but we approach the process constructively and in good faith.

We have confidence in your wisdom and expertise and we trust that, with your guidance, we can achieve a settlement that brings our two nations together in an enduring relationship of cooperation, friendship and peace; based on good will, mutual trust and international law.