

ASEAN REGIONAL FORUM WORKSHOP
ON
MARITIME DISPUTES AND INTERNATIONAL LAW

Closing speech

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Good afternoon esteemed ladies and gentlemen,

Our much esteemed and respected Elder Statesman Xanana Gusmão, Ministers Agio Pereira, Dionísio Babo, and Joaquim Martins.

Thank all for joining us here at the ARF Workshop which over two days provided very valuable insights on international global dispute mechanisms. This has been a very important event for us to hold here in Dili.

I want to acknowledge co-chairs Dr Adina Kamarudin of Malaysia, Ambassador James Larsen of Australia and Ambassador Jorge Camões of Timor-Leste.

Thank you speakers and moderators who have made this event possible and contributed to a very informative, very educational discussion.

Many speakers have travelled some distance to be here with us and we hope you have enjoyed your time in Dili.

We profusely thank the organizers who have put this international event together: Australian Department of Foreign Affairs and Trade; Malaysian Ministry of Foreign Affairs; the ASEAN Secretariat and last but not least the very able staff of the Ministry of Foreign Affairs and Cooperation of Timor-Leste

The importance of international dispute resolution

I am a believer in the overarching goal of our internal relations, in our relations with our immediate neighbors and the international community at large, is consolidation of peace and security.

Peace is an enduring right of all peoples everywhere, and for peace to be sustainable the sine quo non condition is a deep commitment by all stakeholders, working in partnership and solidarity.

Over two rich days, we heard about the importance of resolving maritime disputes via dialogue, in good faith and transparency.

The workshop has drawn on regional experience, academic and practitioner expertise from across the region. We heard about specific cases and recent successful examples of peaceful dispute resolution.

In the first of today's panels, we heard about the models of dispute resolution mechanisms available to us for resolving maritime disputes in order to prevent escalation to conflict. In yesterday's panel on the Conciliation, we heard example of creative thinking in approaching dispute resolution, the case of Timor-Leste and Australia and the historic compulsory conciliation.

I am a strong advocate of the international rules based order, which calls for states to use international and/or regional mechanisms and cooperation, to resolve disputes in accordance with international law.

International disputes, and particularly maritime boundary disputes, left unresolved, do affect the relations of the countries directly involved and almost always negatively impact on the entire region, and may undermine international peace and security.

Stemming from decades of direct experience and observation I submit that strong regional conflict prevention, conflict resolution and mediation mechanisms are crucial to foster durable peace and security.

ASEAN and regional approach

The UN Charter obligates parties to disputes which may endanger international peace and security to seek solutions via peaceful means including resorting to regional bodies or other arrangements.

ASEAN's role in conflict prevention, meditation and conflict resolution is well-known, tested on numerous occasions in the course of its existence. I recall ASEAN's central role in the Cambodian, starting in 1984, followed by so-called informal meetings in Jakarta that culminated in the 1991 Paris Agreement.

In 1999-2003, ASEAN countries played critical role in the resolution of TL conflict when the then Thai Foreign Minister Dr. Surim working closely with Foreign Minister Ali Alatas of Indonesia and the UN SG, agreed to have ASEAN countries participating in a very visible way in the SC authorized international force that was deployed to TL to enforce peace and security. Singapore, Malaysia, Thailand and The Philippines were among the more than 30 countries that contributed troops and armed police forces. UN Force commanders were drawn from Thailand, Singapore, Malaysia and The Philippines. ASEAN officials were seconded to the UN Transitional Administration for TL - UNTAET.

Timor-Leste is already heavily involved with the member states of ASEAN and with the region: More than 70% of our external trade and most of our financial transactions are with Indonesia and other countries in the region; and many thousands of Timorese have or continue to study across the region.

The ASEAN Regional Forum which brings us together today is also a key part of this process. Through understanding our neighbor's concerns, fears and interests – whether based on politics, economics, history, geography, or a combination of all of these – we may be able to build bridges and forge win-win arrangements and hence deescalate tensions and achieve lasting peaceful settlement of disputes.

I thank all our near neighbors and all ASEAN Member States for your steady support and engagement with our nation through events such as this one, as well as continuing dialogue with us concerning membership of this prestigious regional organization.

Timor-Leste is inextricably part of Southeast Asia and is a natural bridge to Papua New Guinea and Australia. This is our geography bathed by the waters that flow from the Pacific Ocean into the Indian Ocean. Timor-Leste is a very homogeneous country with 98% of the people being devout Catholics and Christians, followed by a small and fully integrated Muslim community.

Events such as this guide us towards full integration in the ASEAN community and illustrate how no matter a country's size, population and wealth, we all may contribute to a richer, inclusive peoples centered-ASEAN, an ASEAN that embraces all and leaves no one outside.

We believe in the concept ASEAN community. Timor-Leste's accession to ASEAN is one of the most important political aspirations of our people. We will continue to work with many of your nations leaders, towards this aim and thank you for your steady assistance in our hard work to live up to the expectations and requirements of ASEAN membership.

Right now, at a time when our country looks to the future and works towards securing political stability, regional support is more important than ever.

Timor-Leste and international dispute resolution mechanisms

Our nation is no stranger to pursuing peace and justice through existing international mechanisms. I am proud to say that throughout our history we have overcome conflict after conflict with respect for the international order and by using the tools that can be found in the international law toolkit.

Independence

I recall that resolution of the conflict in TL was due to the central played by international law, regional and multilateral partnership. I believe this was one of our greatest

accomplishments, realized in 1999 with a UN-supervised Popular Consultation, and of course, the cooperation of the Indonesia government.

The United Nations, while at times facing its own challenges and limitations, is one of the tools and pillars of international peace. During the transition from 1999 to independence, notable examples were the UN-supervised popular consultation and the UN Transition Administration - UNTAET.

By working within the international framework for peace, we reached the end of a long international dispute that affected not only us, but the region as a whole. What this meant for Timor-Leste was that we could move forward and engage with our neighbors, the region as a whole and the rest of the world.

We have more than 15 years of successful security and defence cooperation with Australia, Portugal, the US, Brazil, Indonesia, Malaysia, Thailand, The Philippines, Republic of Korea, Japan and China.

Our deeply cherished independence would not have been possible without the international order, our friends and neighbors. We owe them much.

Maritime boundaries

This was not the conclusion of our journey to sovereignty, and was not the last time we would call upon and use the international mechanisms successfully. The long fight for our maritime sovereignty was drawn out, and Timor-Leste hit road block after road block in negotiating with our neighbor.

Finally, as we have heard in these sessions, we creatively found a way to use another tool in the international law toolkit to resolve one of the most significant disputes in the region.

We resolved our differences with Australia on the maritime boundary claims. Mediated by the best minds in the Law of the Sea operating within UNCLOS, Timor-Leste and Australia showed the world that seemingly intractable maritime disputes may be resolved by using existing UN mechanisms. I commend our Australian friends and neighbors who showed compassion, wisdom and humility of the truly great.

Our Leader Xanana Gusmão showed audacity and strategic brilliance in challenging our giant neighbour's claims. We all knew there was an unjust situation but few believed we could resolve it in the short and medium term – like many other maritime disputes, it seemed there was no way out. But where there is a will, and an international order, there is a way.

And so, we initiated the first ever UNCLOS compulsory conciliation, without knowing exactly what might happen (as it had never been done before). All they knew was that this was the best, most sensible course of action, and one that was embedded in international law.

Of course, it takes all parties to resolve a dispute such as this. As an undisputed regional power, Australia could have simply ignored our legal challenge. But Australian leaders listened to their own conscience, to do the right thing, to be fair to a poorer and smaller nation, and to respect and submit to the international mechanisms that exist.

It was, as Minister Agio said in his address, a fantastic example of the combination of law and diplomacy, facilitated by expert intermediaries and with goodwill on both sides. We have been lucky enough to hear from both Chief Negotiators (Xanana and Mr Quinlan) who join us in the workshop – both are champions of peace.

The use of the Conciliation Commission has proven to be a testament to the way in which international law reinforces stability and allows countries to resolve disputes peacefully. It is an example of the rules based order in action and has offered states an alternative avenue through which to settle boundary disagreements.

This is the model we should strive follow in principle, as a region, in resolving these maritime disputes.

Moving towards a regional focus

There are around 400 unresolved maritime disputes today, many of these concerning maritime boundaries. If left too long, these disputes can lead to tension build-up and escalation among the states involved and the entire region.

While these are complex disputes, we states do have an obligation to explore avenues to resolve them in accordance with international law.

It is important to reflect on some of the lessons we have taken out from this workshop, what we can take away from Dili and strive to implement in all the nations of the ASEAN Regional Forum. In the very first session, we heard reflections on the compulsory conciliation and understood why that model was so successful. Minister Agio spoke of the importance of a legal framework underpinning a dispute resolution process, the human element in the dispute, and the efficacy of the international liberal order.

We heard then about the legal challenges that states must overcome and the standards they need to meet if we intend to persist with peaceful resolution of these disputes. That includes meeting the jurisdiction and admissibility requirements for the world's international forums of dispute resolution.

While the Compulsory Conciliation worked well for Timor-Leste and Australia, we should not make an assumption that this is the right mechanism for all nations in a similar situation. TL equally believes in the ASEAN WAY. We know that, as we heard from our esteemed panelists who discussed "*Models of dispute resolution and choice of mechanism*", that there are many models that can be applied and pursued on the international and regional levels.

It is only by understanding these options that are available to peacefully resolve disputes that our respective nations can look to applying them.

Today, the sessions focused on disputes relating to maritime boundaries and to fisheries and the environment. These represent two key concerns for our maritime-centric region, which indeed by their very nature, concern all surrounding countries and must be addressed jointly in a regional approach.

In those sessions we heard from panelists from the Philippines, Indonesia, Malaysia, Vietnam, Timor-Leste and Australia, a true reflection of the diversity of our region.

As we concluded, it was fitting to end the workshop with a discussion of the future approach that we, as a region, should work towards in order to peacefully resolve disputes that affect not only our nations, but inevitably the entire region.

Conclusion and looking forward

Regional cooperation is the bedrock of peaceful settlement of disputes. Our region is one of the most diverse.

This makes us unique, but also prone to disagreements that we need to address, manage and overcome.

All of us, leaders and participants in the international order, must make every effort to sustain peace and resolve existing disputes in a peaceful, cooperative, and successful way.

ASEAN, as the leading regional organisation, has a responsibility to lead the way in this vision, having the resources, the political clout, and the willingness to do so.

As each of you return home, let these be the lessons and the hopes that you take back with you. For the benefit of peace, and for the benefit of the entire region.

Thank you once again for joining us here in Dili for this ARF Workshop, safe travels back to your respective homes.