



PRESIDÊNCIA DO
**CONSELHO
DE MINISTROS**



OFFICE OF THE MINISTER OF STATE AND
PRESIDENCY OF THE COUNCIL OF MINISTERS

**SPEECH ON THE OCCASION OF THE
1st INTERNATIONAL CONFERENCE ON AFFAIRS OF THE SEA**

"THE PROCESS OF DELIMITATION OF MARITIME BOUNDARIES"

Díli, 16 – 17 August, 2018

MINISTER OF STATE AND PCM, AGIO PEREIRA

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO CONSELHO DE MINISTROS



Timor-Leste is a small half-island, but with a geographical location and important territorial continuity, whose maritime waters under its jurisdiction extend over the confluence area of the Indian and Pacific oceans.

These waters, as we have already seen, have always held our attention, as the living resources of the water column are, along with natural resources, important sources of wealth in the Timor Sea, which deserve to be recognized, exploited and preserved. For Timor-Leste, maritime resources mean an exponentiation factor for the limited terrestrial resources and can contribute strategically to the economic and social development of the country.

For this reason, Timor-Leste, after a long and difficult struggle for independence, immediately sought international recognition of its sovereign maritime rights. While it is true that maritime borders are vital to the economic development of our nation, which continues to have a long reconstruction journey ahead, the essential issue of full sovereignty has led us to continue to fight for exclusive rights over what belongs to us.

The objective of the delimitation of maritime borders was, moreover, immediately expressed in our Constitution and, a little later, in Law no. 7/2002,

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



which took effect on May 20, 2002. This Law claims the seabed and the subsoil (known as the "continental shelf") and as such formally claims the Exclusive Economic Zone, which extends for at least 200 nautical miles from the coast in accordance with the United Nations Convention on the Law of the Sea.

Modern Law of the Sea under this Convention gives coastal States important powers over the areas under their sovereignty, including exploration and exploitation of living resources in the water column, but also of the living and mineral resources located on its continental shelf.

In retrospect, I remember that in the 1960s the Timor Sea had aroused the interest of the oil industry and foreign governments, since it was supposed to be rich in oil and gas, especially in the northern part of the Bonaparte Basin, near the coast of Timor-Leste.

It was in the next decade that Woodside Petroleum discovered one of the largest gas reserves in the region, in the fields known as Greater Sunrise. When Indonesia and Australia signed the Sea Bed Border Treaty in 1972, they agreed



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



line carefully circumvented the margin of the Greater Sunrise so that these reserves were located mainly in the seabed belonging to Australia.

As you know, three years after this agreement, Timor-Leste was invaded by Indonesian forces. While the Timorese people were isolated in their tragedy, our two large neighbors, Indonesia and Australia, decided to share the wealth of the Timor Gap, the gap left unresolved in 1972.

In 1989, the infamous Timor Gap Treaty between Indonesia and Australia was concluded - which did not resolve the permanent maritime border, because both States claimed sovereign rights in overlapping areas - but established a provisional regime, practical in nature, for exploration resources. More than that, it recognized, on the part of Australia, the annexation of the territory of Timor-Leste by Indonesia.

It may be interesting to recall that until the end of the 1940s it was almost impossible to explore oil on the high seas. A relatively recent study argues that once this became possible, on the assumption that there would be wealth for which it was worth fighting, the disputes over maritime borders and even the military conflicts around them began to increase.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



For this very reason, the evolution of the law of the sea, which culminated in the important United Nations Convention, was so important. It took decades to be negotiated by the States. The Convention, which was adopted in 1982 and came into force in 1994, established the international legal framework for maritime spaces which, among other things, defined States as having the right to operate in the areas of their Exclusive Economic Zone.

However, the problem arises when two states are not so far apart. This is precisely what is happening in the Timor Sea, where the East Timorese and Australian coasts are about 300 nautical miles apart and, therefore, there are areas where maritime claim overlaps.

Timor-Leste, aware that the Convention provides that in these cases the maritime border must be determined by common accord on the basis of international law - with a view to a "fair settlement", drawing equidistant line between the two coasts and adjusting it if necessary to take into account "relevant circumstances" - attempted, soon after its independence, to negotiate the permanent border with Australia. The latter, however, continually refused to sit down at the negotiating table with Timor-Leste.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
**CONSELHO
DE MINISTROS**



In the absence of a common agreement, maritime borders should normally be determined by a binding decision of an international court. However, in March 2002, just two months before the date of the restoration of our Independence, Australia withdrew from all procedures of binding resolutions of disputes around maritime borders.

Ladies and gentlemen,

This historical summary explains why, until March of this year, the Timor Sea was regulated by interim arrangements for resource sharing. In fact, the Timor Sea Treaty, signed in 2002, continued the Timor Gap Treaty, with some conditions more favorable to Timor-Leste, but also with continued exploitation by Australia of resources that, by jurisdictional right were in the Timor area.

Securing maritime rights is not an easy task, especially for a fragile nation which is recovering from conflict. The willingness of the Timorese to secure their permanent maritime borders did not mean, however, that we had the financial resources or the institutional capacity to carry out our claims.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



And since, at times, to the detriment of the ideal, we need to condescend to minimize the difficulties, we must recognize that the interim arrangements for the sharing of resources entered into with Australia in order to unblock access to the valuable resources in the Timor Sea, have channeled important revenues for our oil fund. This sovereign fund, created in 2005, which has rigorous criteria of sustainability and transparency, allowed to rebuild vital national infrastructures, as well as other public goods and services, while also ensuring benefits for future generations. These revenues from the resources of the Timor Sea have also made it possible to build and train the national institutions responsible for the delimitation of maritime borders with our two neighbors.

Ladies and gentlemen,

Turning now to a more recent past, Timor-Leste, at the beginning of 2016, was running out of options to fulfill its claims of border delimitation.

Civil society, both Timorese and Australian, was pressing for a fair line to be drawn in the Timor Sea. This was when our team responsible for the delimitation of maritime borders, led by the Negotiating Team Leader, Kay Rala Xanana Gusmão, in examining the Convention even more carefully,

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



decided to move forward with a new option, which had never been explored before by any State and as such, unprecedented in terms of jurisprudence.

This option, mandatory conciliation, is provided for in Article 298 and Annex V of the Convention. Timor-Leste decided to move forward. The Timorese people (and their leadership) once again placed the sovereign fate of the nation in the hands of Maun Bo'ot Xanana Gusmão. Once again, this trust was well deserved. The Team Leader led the negotiations wisely and firmly, and on March 6, 2018, we signed the historic Timor-Leste-Australia Treaty on their Maritime Borders in the Timor Sea.

Returning to the conciliation process that led to this outcome, I recall that Timor-Leste has always relied on an international rule-based system to regulate relations between States and to contribute to the peaceful settlement of disputes, allowing all States, large or small, to know the basic principle of equality and the justice of the international system.

With our struggle for Independence it had also been so. We fought for years to make our rights heard on the international stage, with the support of a few others beyond Portugal and the CPLP countries, and we also did "guerrilla" in

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



the corridors of the United Nations. After almost two decades, we finally broke the siege, and the system and international law were on our side.

It was also with this expectation, or rather with this hope, that on 11 April 2016 we notified Australia, with a copy sent to the Secretary-General of the United Nations, of the start of the compulsory conciliation procedure. The goal of Timor-Leste was only to achieve a fair outcome by securing its maritime rights under international law with the assistance of a credible and independent Conciliation Commission.

I will not go into technical or legal considerations about the conciliation process, because at the end of this month a publication of the Maritime Borders Office will be launched by the Negotiating Team Leader, which tells the story of this process and the results achieved, with detail and precision.

However, I would like to underline some important points:

First, although the process it was not simple, it proved to be a success as it allowed Timor-Leste and Australia to move beyond the tensions that had

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



antagonized them for too long and to work to achieve a result that reflects the principles of international law.

Second - Conciliation was an unproven procedure, so we were reluctant to be the "test case." In our case, together with Australia and the Conciliation Commission, we had to open inroads, in a relatively flexible way. The Commission encouraged an informal and interactive environment, very different from what would have been the context of a court, enabling the parties' positions to be tested in a structured and confidential environment. The Commission was indeed able to create a climate of confidence that enabled the Parties to agree on several issues that separated them.

Third - Timor-Leste's position has always been that it was the border delimitation that should govern access to maritime resources, seeking Australia's agreement with the border position, before engaging in discussions regarding the exploitation of resources. However, the existence of valuable resources in the Timor Sea was inevitably present during the process, and it was only possible to proceed by putting aside the controversial issue of Greater Sunrise ownership by delimiting provisional boundaries that will be automatically adjusted after the field is completely exhausted.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



Fourth - The agreement thus establishes a special regime for Greater Sunrise to allow joint management and development and distribution of most revenues for Timor-Leste, with its people getting most of the benefits coming from the Greater Sunrise field. Timor-Leste stressed that the people of Timor-Leste deserve not only most upstream revenues, but also a substantial part of the employment opportunities and economic benefits that inevitably result from the midstream and downstream components. On the other hand, given that Australia has received practically all the benefits of midstream and downstream from the Bayu-Undan field, with the construction of a pipeline for a new Liquefied Natural Gas (LNG) processing facility in Darwin, Timor-Leste argues that most of the overall benefits of Greater Sunrise resources should flow to the Timorese people.

Fifth - The agreement allows the sharing of upstream revenues from the Greater Sunrise, with 70% being allocated to Timor-Leste, if the "LNG Timor" option is chosen (with a pipeline to the south coast) or with 80% to be allocated to Timor-Leste, if the "LNG Darwin" option is chosen (using the existing pipeline up to Darwin). It also provides for all future revenues from the Bayu-Undan, Kitan and Buffalo fields to be transferred to Timor-Leste.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



Ladies and gentlemen,

We have sailed through seas never before navigated through this process, and left as a legacy new "coordinates" for those who come after us, also thanks to the commitment of the Australian Government and the invaluable work of the Conciliation Commission.

The agreement of principle between the parties, reached in Copenhagen on the symbolic 30th of August 2017, the 18th anniversary of the Independence referendum, was a major political victory for our country. This agreement established the fundamental structure of the Treaty, formalized in March of this year.

This result serves not only to develop the country but also to strengthen friendly relations and cooperation with Australia. This result is still an example to the world of how a peaceful and comprehensive resolution can be reached between states that cannot overcome historical impasses. It is thus a victory also for international law and for the United Nations system.

CHECK AGAINST ORIGINAL IN PORTUGUESE



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



For the Timorese it is further evidence that their determination and resilience in the defense of just causes are not vain qualities.

Ahead, we must ratify the Treaty in the National Parliament and continue the trilateral talks between the States and the Joint Venture. This will be the process by which agreement should be reached on commercial terms for the development of Greater Sunrise, fulfilling our obligation to ensure "equivalent conditions" for companies under any new arrangements for Greater Sunrise, in accordance with the commitments of the Treaty of the Timor Sea and the subsequent International Unitization Agreement. These agreements, although they have been superseded by this new Maritime Boundary Treaty, cannot be "erased" so as not to undermine investor confidence in our country.

In the near future and again guided by the leadership of Maun Bo'ot Xanana Gusmão, we will also begin negotiations with Indonesia, so that we can say with certainty that we have full sovereignty over our land and sea borders and that we can, as such, monetize the potential of the seas that surround us, in an independent and sustainable way.



PRESIDÊNCIA DO
CONSELHO
DE MINISTROS



This young nation, recently recovered from a quarter of a century of violence, will remain vigilant, in all aspects, to continue the struggle for the consolidation of its independence and sovereignty, won through blood, tears and much suffering.

Thank you very much.