

# **The Timor Gap in the Delimitation of the Continental Shelf Boundary between Indonesia and Australia**

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Up till now Indonesia and Australia have produced some agreements and memorandums of understanding on the delimitation of the boundaries of the continental shelf and the territorial waters of both countries. However, some other issues on the delimitation of mentioned boundaries are still being discussed in the negotiations between the two countries, which were resumed in 1979. The seventh negotiation held in Canberra on 25th-26th October 1985 ended without any agreement.

Difference in principle concerning the delimitation of maritime boundaries emerging between the two countries has not as yet been overcome so as to reach a compromise acceptable to both parties. The emergence of the difference in principle, which was due to "special circumstances" in delimiting those boundaries has become an obstacle to reaching a mutual agreement.

Aside from technical factors, other factors constituting obstacles are economic and political ones. From the economic point of view, the abundant natural resource potential in the seabed boundaries area may become an obstacle in reaching a mutual agreement. On the other hand, this constitutes a factor spurring both countries to go on holding negotiations. Politically, the background of the relationship between the two countries has also affected the negotiations and the reaching of agreement, particularly those related to the East Timor issue.

## **THE 1971 AND 1972 AGREEMENTS**

The territorial boundaries of either the waters or the sea beds between Indonesia and Australia stretch from the southern part of the Island of Irian as



far as the southern part of the Island of Roti (X-mas Island lies far off south of the Island of Java). Agreements so far reached in 1971 and 1972 cover only part of the borders between the two countries.

In the first agreement between Indonesia and Australia signed in Canberra on 18th May 1971 some seabed boundaries frontal to the south coast of Irian/Papua New Guinea in the Arafura Sea, namely the lines connecting points  $A_1 - A_{12}$  (see Figure 1) were delimited. No problem arose in reaching this agreement, as the border line drawn through points  $A_3 - A_{12}$ , passes through a continuous, shallow, uniform continental shelf. Both countries shared a common view in this regard and agreed upon the principle of applying a median line in the delimitation of the continental shelf boundary between the two countries.<sup>1</sup>

On 9th October 1972 a second agreement was signed in Jakarta by Indonesia and Australia as a supplement of the first aforementioned agreement. In this agreement certain seabed boundaries were determined and constituted separate boundary lines. In west of the Arafura Sea, i.e. south of the Tanimbar Islands, a boundary line was defined starting as from point  $A_{12}$  connecting points  $A_{13} - A_{16}$ , whereas in the western part of the Timor Sea, i.e. south of West Timor and Roti a boundary line connecting points  $A_{17} - A_{25}$  was defined (see Figure 1).

The Continental Shelf crossed by a boundary line in this second agreement is greatly different from the seabed lying east of point  $A_{12}$  (the first agreement). The difference of the continental shelf is striking with the existence of a shallow and vast continental shelf lying adjacent to the Australian coast, whereas a narrow and deep continental shelf lies adjacent to the island of Timor (Indonesia). In between the two continental shelves lies the Timor Trough with a maximum depth of 3,000 m. This trough lies 300 miles north off Darwin and 60 miles south of the coast of the island of Timor.<sup>2</sup>

It is precisely this issue that has given rise to the difference of views between Indonesia and Australia with regard to the delimitation of the continental shelf boundary in this seabed territory. Australia asserts that there are two continental shelves between Indonesia and Australia which is divided by

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<sup>1</sup>R & D Body on Foreign Affairs of the Department of Foreign Affairs (Deplu), *Wawasan Nusantara* (Archipelagic Outlook), vol. II, (Jakarta: Deplu, 1977), pp. 50-51; J.R.V. Prescott, *Australia's Maritime Boundaries*, Canberra Studies in World Affairs no. 16 (Canberra: Department of International Relations, Australian National University, 1985), p. 104.

<sup>2</sup>Prescott, *Australia's Maritime*, p. 104; see also Hasjim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut* (Jakarta: Binacipta, 1979), p. 168; Michael Richardson, "Drawing the Seabed Line," *Far Eastern Economic Review* (FEER), 10th March 1978, p. 81.

BONAPARTE BASIN WATER DEPTH

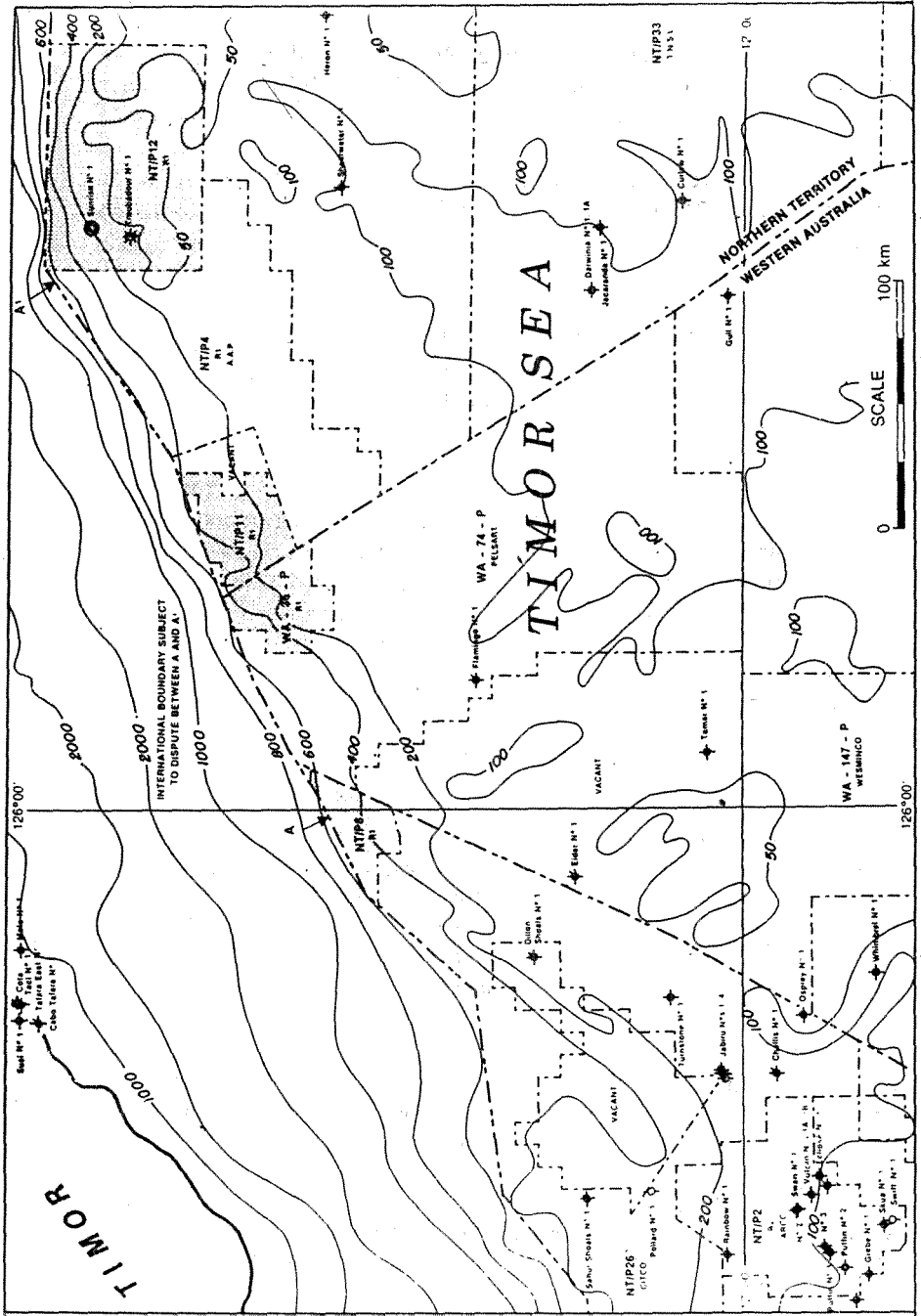


Figure 2

Source: Woodside Petroleum Ltd. (Melbourne)

the Timor Trough. The wider southern part is to be Australia's continental shelf and the narrower northern part is to be Indonesia's. Australia claims that the axis of the Timor Trough should be the boundary line of both countries' continental shelves. Indonesia, however, maintains that there should only be one continental shelf and that the Timor Trough should not be incalculated since it only constitutes a depression of the continental shelf concerned. Hence the boundary should be made by drawing a median line between the two countries' continental shelves.<sup>3</sup>

Prior to that, Australia has given concessions to foreign oil companies to operate in waters farther away from those with a depth of 200 metres. This is based on Australia's claim with regard to her continental shelf in accordance with the 1958 Geneva Convention concerning continental shelves. In Article 1 of this Convention it was stipulated that the continental shelf comprises the seabed and the subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, up to a depth of 200 metres, or beyond that limit to where the depth of the superjacent waters, admits of the exploitation of natural resources of the said area.<sup>4</sup>

It was for this reason that Australia was opposed to the principle of a median line determined by Indonesia, since a part of mentioned median line crosses the shallow water areas with a depth of less than 200 metres on the Australian coast and would include certain parts of its continental shelf (see Figure 2). Australia was unwilling to give up the concessionary areas conceded to foreign oil companies to become part of Indonesia's territory.

Finally the accepted compromise determined that Australia would keep its continental shelf to a depth of 200 metres, measured from the coast line, whereas Indonesia obtained almost the whole of the trough and part of the shallow seabed beyond the area with a depth of 200 metres off the Australian coast.<sup>5</sup> This agreement resulted in 3/4 of the continental shelf on the boundary area being under the sovereignty of Australia. Accordingly Australia obtained 20,800 nautical square-miles, whereas Indonesia obtained approximately 3,000 nautical square-miles from the seabed territory of both countries.<sup>6</sup>

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<sup>3</sup>Mark J. Valencia and St. Munadjat Danusaputra, "Indonesia: Law of the Sea and Foreign Policy Issues," *Indonesian Quarterly*, vol. XII, no. 4 (October 1984), p. 466; P.G. Basset, "Australia's Maritime Boundaries," *Australian Foreign Affairs Record*, vol. 55, no. 3 (March 1984), p. 186.

<sup>4</sup>Department of Foreign Affairs of the Republic of Indonesia, *Wawasan Nusantara dan Hukum Laut Indonesia*, vol. II (Jakarta: R & D Body on Foreign Affairs, 1976), p. 75.

<sup>5</sup>Djalal, *Perjuangan Indonesia*, pp. 169-170.

<sup>6</sup>Prescott, *Australia's Maritime*, p. 105.

Apart from that, in this agreement were included articles in the determination of concessionary areas granted earlier to foreign companies by Australia. The Indonesian government was prepared to offer and negotiate concessions for the exploitation and exploration of oil and natural gas in concessionary areas which have fallen under the jurisdiction of Indonesia due to above mentioned agreement, in line with production sharing contracts according to Indonesian law.<sup>7</sup> The agreement reached on boundary lines in mentioned Western and Eastern sectors was felt necessary by both countries at that time, on account of the Portuguese control over East Timor.<sup>8</sup> Distinct boundaries need to be delimited by the two countries so as to avoid conflicts, especially due to the concessionary areas granted to foreign companies by one of the parties, and the presence of a third party, namely the Portuguese.

Unlike the case with Indonesia, no agreement had been reached between Australia and Portugal on the delimitation of the continental shelf boundary in areas lying between the boundary lines in above mentioned eastern sectors, which is thereafter known as the "Timor Gap." Since the continental shelf in this Timor Gap is similar to that on its eastern and western side, the difference in principles that emerged in the delimitation of the boundary between Australia and Portugal was similar to the problem that arose in the delimitation of the continental shelf boundary between Indonesia and Australia in the agreement of October 1972. Portugal went even farther in 1974 by granting concessions to a US oil company: the Oceanic Exploration Company of Denver, in areas extending as far as the median line she claimed.<sup>9</sup> Australia protested against this action since mentioned concessionary area crossed those granted to various oil companies by Australia as far as the boundary line she claimed, namely the Timor Trough. The problem on the delimitation of the continental shelf of this Timor gap had not been settled yet between Portugal and Australia until the integration of East Timor into Indonesia in 1976. Hence the delimitation of the Timor Gap continental shelf has become a problem between Indonesia and Australia.

#### THE DELIMITATION OF THE CONTINENTAL SHELF BOUNDARY BETWEEN INDONESIA AND AUSTRALIA

Negotiations on the delimitation of the continental shelf boundary between Indonesia and Australia with regard to the Timor Gap were commenced as of 1979. Aside from this issue, other ones were also discussed concerning

<sup>7</sup>R & D, Deplu, *Wawasan Nusantara*, p. 57.

<sup>8</sup>Prescott, *Australia's Maritime*, p. 105.

<sup>9</sup>Richardson, "Drawing the Seabed," p. 81.

maritime boundaries which form one package, namely the boundary in the western sector (lying west of the Island of Timor); the one between X-mas Island and Java, and the boundary lines of the fishery jurisdiction, particularly in the Timor Sea and the western sector. Seven negotiations have been held so far, namely the first one was held on 14th February 1979; the second on 22nd-26th May 1979; the third in November 1980; the fourth in October 1981; the fifth in February 1984; the sixth in November 1984; the seventh on 25th-26th October 1985.

In the delimitation of the continental shelf boundary in the Timor Gap a difference in principle has arisen between Indonesia and Australia, similar to that of the 1972 agreement or similar to that arising between Australia and Portugal. Australia maintains that the boundary line, "bridging" the Timor Gap, constitutes a more or less straight line connecting the boundary lines agreed upon in 1972. On the other hand, Indonesia wants the equidistant median line as the continental shelf boundary between the two countries (see Figure 3).<sup>10</sup>

Indonesia does not accept Australia's position, since according to her the result of the previous agreement was more satisfactory to Australia. With the continental shelf covering an extent of 20,800 nautical square miles under the control of Australia and only 3,000 nautical square miles under Indonesia's jurisdiction, Indonesia naturally is not satisfied with the result of the previous agreement. This is reflected in the statement of Foreign Minister Mochtar Kusumaatmadja who said that Indonesia had been previously put at a disadvantage and she hoped for a better agreement at present.<sup>11</sup>

According to the Indonesian view, as stated by Foreign Minister Mochtar Kusumaatmadja, the median line is a fair settlement because the new provisions as laid down in the New 1982 Law of the Sea Convention signed by Australia and Indonesia has abandoned the old definition of continental shelves of the 1958 Geneva Convention on which the previous negotiations were based. The Indonesian position is based on the law existing at present, namely the new Law of the Sea Convention.<sup>12</sup>

In the definition on continental shelves in the New Law of the Sea Convention (Part VI, Article 76) it is among other things stipulated that the continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a

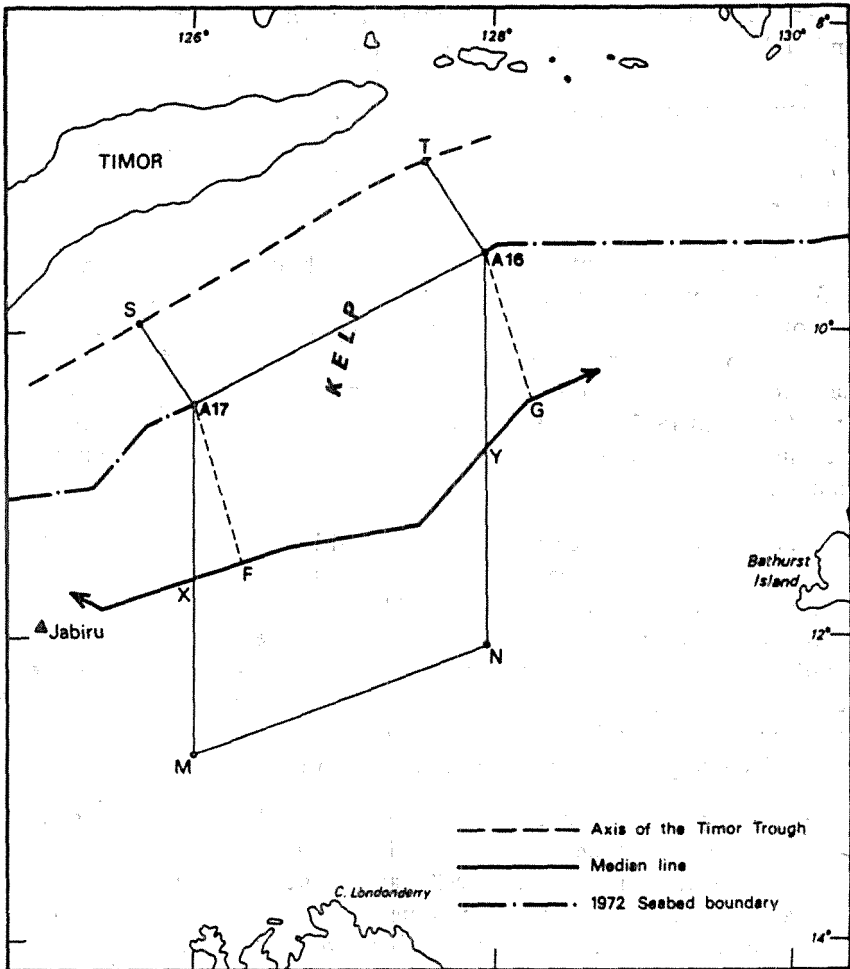
<sup>10</sup>*Ibid.*

<sup>11</sup>Prescott, *Australia's Maritime*, p. 116.

<sup>12</sup>Michael Richardson, "Timor Gap Rift Remains," *FEER*, 19th April 1984, p. 41.

Figure 3.

## THE TIMOR GAP



Source: Same as Figure 1.

distance of 200 nautical miles from the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.<sup>13</sup> Based on this stipulation, Indonesia's continental shelf extends up to 200 nautical miles and since the breadth of the continental shelf of both countries is less than 200 nautical miles, it would be fair if the boundary line is drawn along a median line.

<sup>13</sup>A CONF. 62/122, 7th October 1982, p. 116.



Australia has rejected this view and maintains that the concept of the natural prolongation of the continental shelf has clearly been defined in mentioned Article 76 and should in fact be given first priority. It is obvious from these different views that Indonesia and Australia differs in the interpretation of the stipulations on continental shelves.

A difference of views has also emerged between the two countries on the delimitation of the continental shelf boundary in the western sector (North-west of Timor) which is due to the existence of "special circumstances," namely the islands of Ashmore Reef, Cartier, Scott Reef, and Browse lying far from the coast of Australia, but near the islands of Indonesia. In this respect both parties have agreed on using the median line, but differed in the aspect as to where to start drawing the median line. Indonesia wished that the median line be equidistant from the outermost points of the archipelagic baselines of Indonesia and the coast of Australia. On the other hand, Australia maintained that the median line be drawn or delimited between the outermost points of the archipelagic baselines of Indonesia and the coasts of its four islands (Ashmore Reef, Cartier, Scott Reef, Browse)<sup>14</sup> (see Figure 4).

As to the delimitation of the continental shelf boundary between X-mas Island and Java, Australia might be willing to agree on a line drawn along the insular margin. However, what is questioned by Indonesia is whether or not the X-mas Island has the right over natural resources of the continental shelf, since this island lies within the 200 nautical miles of Indonesia's territorial waters and is far away from the Australian continent.<sup>15</sup>

Aside from the issue on the delimitation of the continental shelf boundary, Indonesia has to negotiate with Australia about the delimitation of the boundary of both countries' fisheries jurisdiction in connection with the announcement made concerning Australia's 200 nautical miles fishing zone on 1st November 1979 on the one hand, and that of Indonesia's 200 nautical miles Exclusive Economic Zone on 21st March 1980, on the other. Prior to the announcement concerning the Exclusive Economic Zone, Indonesia was already concerned about Australia's Fisheries Zone announcement, since in delimiting its Fisheries Zone in the western sectoral area, Australia has delimited the boundary lines of the four islands referred to above. As a consequence of drawing such boundary lines, the median line drawn from those baselines would be very remote from the Australian coast, and near to that of Indonesia. It appeared that Australia's position in delimiting the fisheries jurisdiction was similar to the delimitation of the boundary lines between the two countries.

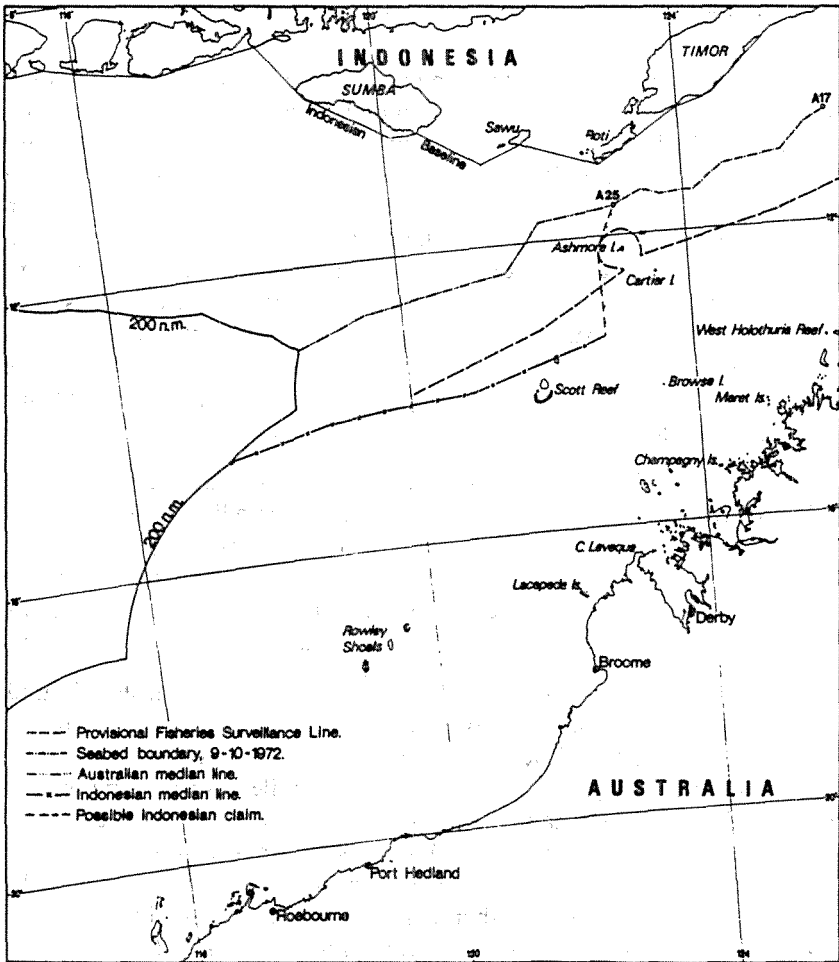
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<sup>14</sup>Valencia and Danusaputra, "Law of the Sea," p. 466.

<sup>15</sup>*Ibid.*, p. 469; *Kompas*, 8th February 1984.

Figure 4

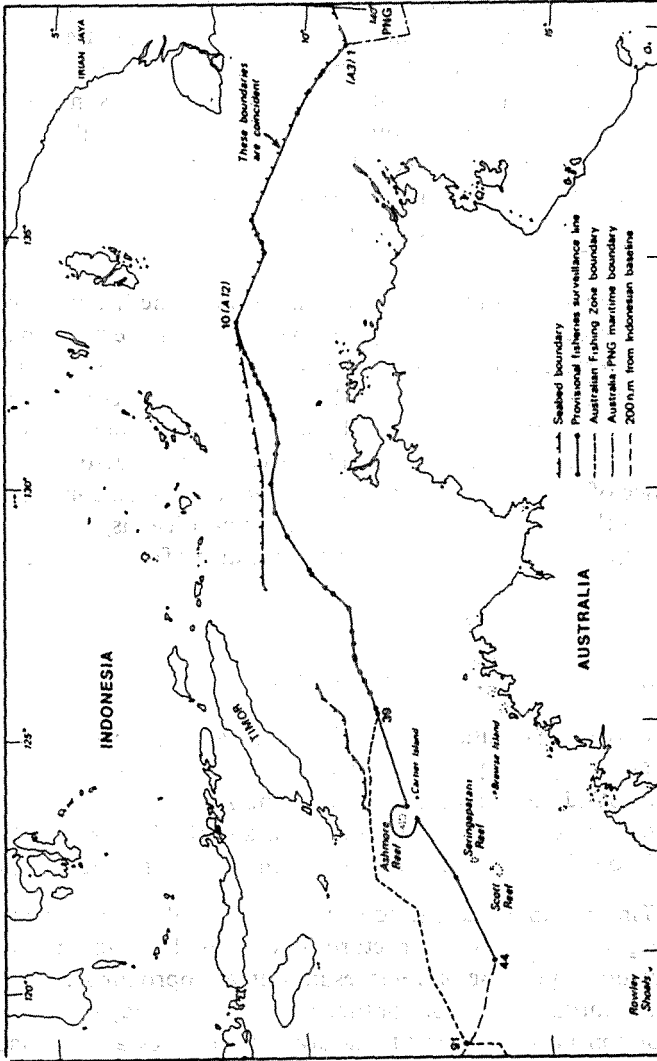
POSSIBLE EXTENSION OF THE SEABED BOUNDARY WEST OF POINT A25



Source: Same as Figure 1.

This problem, however, was tentatively overcome with the ratification of a memorandum of understanding on the fisheries jurisdiction of the two countries in their fourth negotiation on 27th - 29th October 1981. In this memorandum provisional fisheries boundary lines have been determined by drawing the lines connecting points 1-44 (see Figure 5). Furthermore, it was stated that both parties have agreed on a provisional arrangement with regard to the im-

Figure 5



Source: Same as Figure 1

plementation of control and law enforcements in the field of fishery on the basis of a provisional fishing boundary between the two countries in Timor Sea and the western sector. On the basis of this provisional arrangement, each of the parties concerned shall not exercise control and take law enforcement measures with regard to fishing boats permitted to operate beyond the provisional boundary. It has also been stated that the provisional boundary would neither be disadvantageous to either of the two countries in the delimitation of the actual boundary by both countries in the future. Finally, it was also stated in the memorandum that it would not affect traditional fishing conducted by Indonesian fishermen, the boundaries of which were already defined in the memorandum of understanding between the two countries in Jakarta 6th-7th November 1974.<sup>16</sup>

Unlike the negotiations on the delimitation of the fisheries zone, which appeared to be easier in achieving a provisional arrangement enabling the two parties to exercise their fishery jurisdiction over the boundary area of their respective territory, the issue on the delimitation of the continental shelf boundary of both countries was more difficult. This was due to both the complex nature of the continental shelf and the economic factor, i.e. the potential abundance of oil and natural gas deposits in mentioned continental shelf, particularly in the Timor Gap. In addition, the political aspect with regard to the relationship between the two countries has also affected the abovementioned issue.

## ECONOMIC AND POLITICAL ASPECTS

Owing to the potential riches of its natural resources, the Timor Gap has been given first priority in the package of negotiations on the delimitation of maritime boundaries between Indonesia and Australia. The seabed territory of the Timor Gap covering the Timor Basin and the Bonaparte Gulf Basin (see Figure 2) constitutes one of the two dozen richest oil fields in the world.<sup>16</sup>

The Timor Gap has attracted geologists and oil experts because of its huge dome-shaped jurassic rock structure, known as the Kelp structure. The most careful estimate puts the oil reserves in Kelp at approximately 500 million barrels, and according to a more optimistic estimate it may even amount to more than 5 billion barrels. Whereas natural gas reserves are estimated at 50,000 billion cubic feet. Although these estimates are only based on seismic analysis, Kelp would be Australia's second biggest oilfield and one of the 25 biggest oil fields in the world. These estimates would triple Australia's remaining oil reserves of 1.85 billion barrels.<sup>17</sup>

<sup>16</sup>Richardson, "Timor Gap," p. 41.

<sup>17</sup>*Ibid.*

Aside from that, according to research conducted by the Broke Hill Proprietary Company (BHP) consortium, in the Jabiru Field more oil reserves, amounting to 250 million barrels can be acquired. This Jabiru Field is situated at approximately 200 kilometres from the Timor Gap and constituted part of a new oil field extending up to the Timor Sea, including the area disputed by Indonesia and Australia. In this regard Federal Minister for Natural Resources and Energy, Sen Peter Walsh said that the Bureau for Mineral Resources further expected that oil not only be found in Jabiru (in Bonaparte Basin), but also in areas adjacent to an area of similar geology. He also added that it would mean that Australia would almost be self-sufficient in oil by early 1990.<sup>18</sup>

Hence the stakes in the negotiations between Indonesia and Australia are potentially very high. Hence it is not surprising that the potentially rich oil deposits and natural gas in this Timor Gap area could hamper the reaching of an agreement, since an agreement on boundary delimitation means a determination on the amount of oil deposits and natural gas to be under the control of the two countries.

The application of median line would cut the centre of the Bonaparte Gulf Basin so that 2/3 of the seabed of the Bonaparte would be incorporated into the Australian territory and 1/3 would become Indonesia's territory, whereas the whole of the Timor Basin would belong to Indonesia. On the other hand, by drawing a "more or less straight" line connecting the existing boundary lines would put the whole of the Bonaparte Gulf Basin into Australia's territory, and this would include part of the Timor Basin. Some of Australia's concession holders are operating beyond the median line, such as Tricontrol (1980), WP2 (Woodside 2) and MES (Mesa Australia)/WAP (West Australia). Whereas WP2 and The Aquitaine extend up to the "line connecting" the Timor Gap (see Figures 3 and 6).<sup>19</sup> Accordingly oil companies operating in the still disputed area had to freeze their exploration work pending the completion of the negotiations on the continental shelf.

Hence, as aforementioned, it would not be surprising if the potentially rich natural resources in the Timor Gap might become an obstacle in reaching a mutual agreement. However, this factor may motivate both countries to hold negotiations for the settlement of the continental shelf boundary. This was obvious from the fact that in 1984 Indonesia resumed their talks which might be due to the pressures from oil companies and from the states of West and North

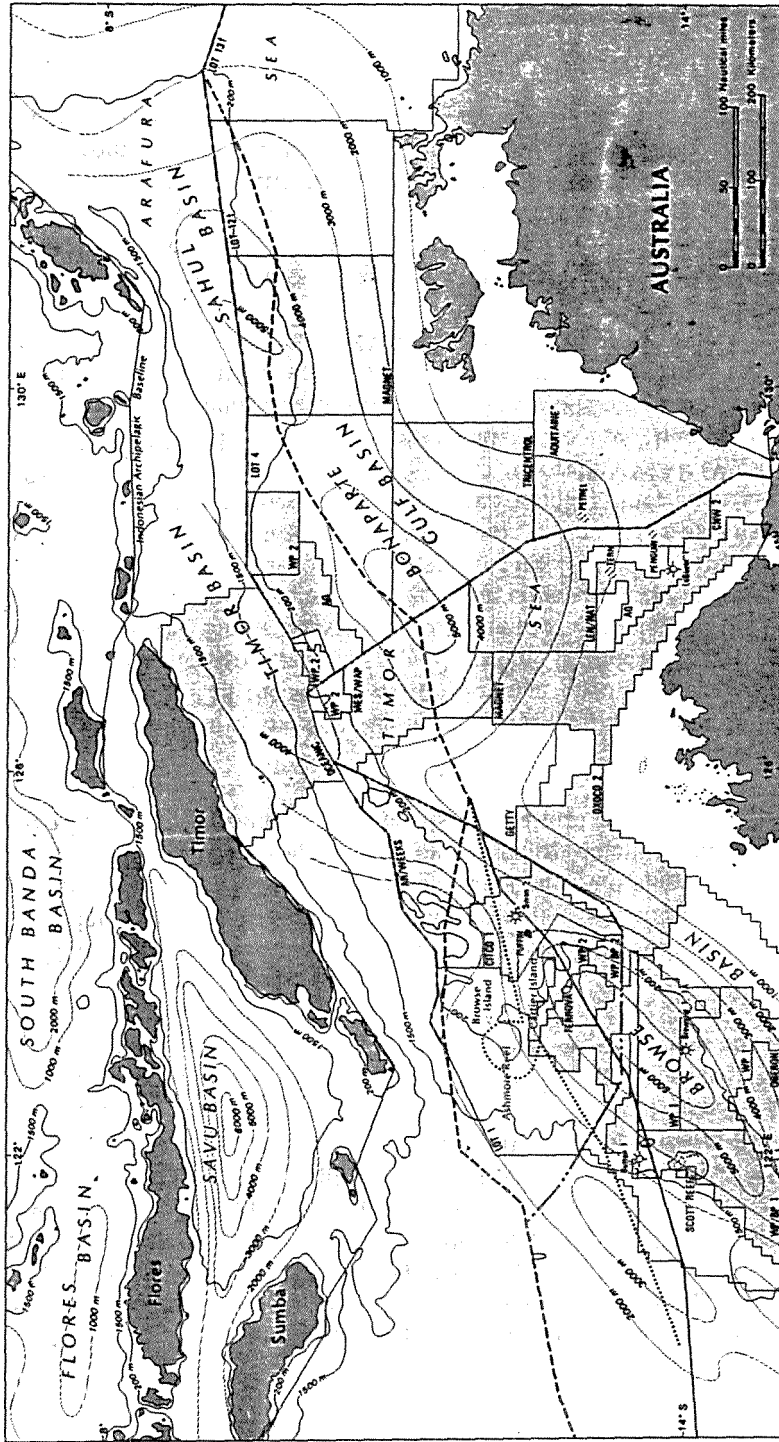
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<sup>18</sup>*Ibid.*

<sup>19</sup>*Ibid.*

<sup>20</sup>*Ibid.*

MAKELIMIE CLAIMS AND PETROLEUM GEOLOGY



**PETROLEUM GEOLOGY AND BATHYMETRY**  
 Sediment Thickness (Meters)  
 Bathymetry (Meters)

**EXPLORATION HISTORY**  
 ● Oil Field \* Gas Well  
 ☼ Gas Field ✧ Gas Show

**BLOCK STATUS**  
 Contract Area  
 Operator

**BOUNDARIES**  
 - - - - - Agreed Continental Shelf Boundary  
 ······ Provisional Fisheries Surveillance and Enforcement Line  
 - · - · - Northern Territory/Western Australia Offshore Boundary  
 - - - - - Equidistant Line Discounting Reefs and Islands  
 - - - - - Equidistant Line Considering All Reefs and Islands  
 - - - - - Baseline

**AL ALLUMBE** LEF LEMHAD  
**AQ AQUTAME** MAG MAHRET  
**AR ARATAMIC RICHFIELD** MES MESA AUSTRALIA  
**BP BRITISH PETROLEUM** WAP WEST AUSTRALIA  
**CW CWK ON AUSTRALIA** WP WOODSIDE

\* AUSTRALIAN OMP - Potential of Petrel structure being reassessed.  
 † LOTS 12 10 17 recently offered for bidding. Deadline was  
 5 September 1980. Thirty-six companies applied.

Source: Mark J. Valencia and St. Munadjat Danusaputra, "Indonesia: Law of the Sea and Foreign Policy Issues," *Indonesian Quarterly*, vol. XII, no. 4, 1984.

Australia against the Labour Government under Prime Minister Bob Hawke to seek a settlement of the seabed dispute between both countries which had been protracted since 1979 and terminated in 1981. The settlement of the delimitation of the continental shelf boundary became increasingly more urgent for Bob Hawke's government when oil deposits were found by the BHP Consortium in Jabiru Field by the end of 1983.<sup>20</sup>

Aside from that, another factor of no less importance in exerting influence upon the issue of the delimitation of the continental shelf boundary between the two countries, especially with regard to the Timor Gap, is the implication of a political factor in the relationship between the two countries. Australia's stance with regard to the integration of East Timor into Indonesia's territory has brought about "tensions" in the relationship between the two countries and constitutes one of the obstacles in carrying out negotiations to reach an agreement. Since the integration of East Timor into Indonesia's territory in 1976 it was only in 1979 that negotiations on the delimitation of the continental shelf boundary between the two countries were resumed, namely after the Liberal Party Government under Prime Minister Fraser recognised the East Timor integration with Indonesia on 21st January 1978.<sup>21</sup> Since 1979 until 1981 four negotiations had been held.

When the Labour Party managed to win in the 1983 general election, it again made an issue of the East Timor integration and included in its programme among other things the demand to Hawke's government to urge Indonesia in holding a plebiscite for the people of East Timor, and to decrease military aid pending the withdrawal of Indonesian troops from East Timor and to change Australia's stance with regard to the East Timor issue at the UN.<sup>22</sup> It was this party's programme that brought about tensions in the relationship between Indonesia and Australia. Hence it stands to reason that negotiations on the delimitation of the continental shelf boundary were suspended at that time, and were only resumed in 1984.

As a matter of fact the resumption of the negotiations in 1984 was not only due to the pressures from mentioned oil companies, but was also related to the development of the stance taken by the Labour government in Australia with regard to the East Timor issue. An important change occurred at the National Conference of the Labour Party in July 1984 with the emergence of a centre-left faction, which is, a group which took a moderate stand with regard to the East Timor issue. Hawke's success in building up a force comprising this left-

<sup>21</sup>See Alfian Muthalib, "Indonesia dan Pasifik Barat Daya; Selandia Baru dan Papua Nugini," *Analisa*, vol. XIV, no. 8 (August 1985), p. 694.

<sup>22</sup>"Hawkish Over Timor but Dovish on Cambodia," *FEER*, 17th March 1983, p. 12.

ist group and that of the right wing to voice against that of the left wing faction with its harsh stance against the issue of East Timor integration, resulted in a resolution recognising the integration of East Timor with Indonesia by virtue of 55 votes against 43.<sup>23</sup> In August 1985 this stance was reaffirmed by the statement of Prime Minister Robert Hawke in an interview on Indonesia's TV recognising Indonesia's sovereignty over East Timor.

In line with the aforementioned development, there also appeared a shift of attitude in the negotiations on the delimitation of the continental shelf boundary between the two countries. Australia proposed a concept of a joint exploitation zone in the sixth negotiation in November 1984. It was mentioned in this concept that the management and exploitation of the natural resources in the seabed of the boundary areas of both countries be carried out jointly by founding a joint authority among oil and gas mining companies of both countries. It was also proposed by Australia that the joint management and exploitation would only cover the disputed seabed areas having potentially rich oil deposits, and would not cover the whole disputed area.<sup>24</sup>

In the seventh negotiation on 25th - 26th October 1985 last, mentioned concept was taken up again on how the joint exploitation zone should best be arranged, the nature of its sovereignty, and how revenues deriving from the exploitation of oil should be divided, and whether or not a joint authority would be needed. The talks between these two countries ended with the issuance of a communique in which among other things was affirmed that both parties agreed upon a co-operation scheme between the two countries in exploiting the disputed seabed areas if a boundary line had been agreed upon by the two countries.<sup>25</sup>

Accordingly although an agreement on the boundary lines between the two countries has not as yet been reached, an agreement on a joint exploitation is an important achievement of the negotiations held so far. This issue became one of the major topics of the talks held either during the meeting of Foreign Minister Mochtar and his counterpart, Bill Hayden in mid December 1985 in Australia, or during the second meeting of the two ministers in Jakarta in early March.<sup>26</sup> Aside from that, Bill Hayden's elaboration on the preparations towards efforts for the ratification of the New Law of the Sea Convention on the event of Foreign Minister Mochtar's visit to Australia, was expected to

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<sup>23</sup>Jacqueline Rees, "Saving Hawke's Bacon," *FEER*, 26th July 1984, p. 34.

<sup>24</sup>Michael Richardson, "Bridging the Gap," *FEER*, 13th December 1984.

<sup>25</sup>*Kompas*, 26th October 1985.

<sup>26</sup>*Kompas*, 18th December 1985; 5th March 1986.



shed some light on the settlement of the maritime boundary dispute between the two countries, especially the Timor Gap issue.<sup>27</sup> It was planned that further negotiations would be held in May 1986.<sup>28</sup>

Apparently the implementation of this plan has been postponed. Indonesia did not give its response immediately when Australia forwarded its plan for mentioned negotiations on 16th April 1986.<sup>29</sup> This is perhaps due to the fact that the relationship between Indonesia and Australia which was beginning to ameliorate was "disrupted" by David Jenkins' writing about Indonesia in the *Sydney Morning Herald* daily on 10th April 1986.<sup>30</sup> However, owing to Foreign Minister Mochtar's statement that there would be no reconsideration on some agreements and co-operation agreed upon, or being discussed by the Australian government and some of Indonesia's departments, the writing of David Jenkins notwithstanding, and it was hoped that further plans for negotiations between the two countries would be continued in the future.

## CONCLUSION

From the analysis above it appears that the negotiations on the delimitation of maritime boundary lines between Indonesia and Australia have not as yet yield any common agreement, though negotiations have been held 7 times. The development indicating the ameliorating relationship between Indonesia and Australia, owing to the endorsement of the recognition of Indonesia's sovereignty over East Timor, appears having not enough push to reach a common agreement. Nevertheless, owing to this development it is hoped that the political factor which is assumed to be one of the obstacles has been overcome and would smooth the way towards the reaching of mentioned agreement. Seemingly economic and technical factors still constitute obstacles.

The potentially large oil deposits have led the two countries to retain their respective positions by basing their claims on the law underlying their respective interests. In this respect Indonesia does not appear to be in an urgent position to reach an agreement on the delimitation of the continental shelf boundary. This does, however, not mean that mentioned agreement is not important, since for Indonesia any agreement on a clear delimitation of boundaries is certainly important, not only for the sake of territorial integrity, but also for

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<sup>27</sup>*Sinar Harapan*, 20th December 1985.

<sup>28</sup>*Sinar Harapan*, 21th February 1986.

<sup>29</sup>*Jakarta Post*, 4th April 1986.

<sup>30</sup>See *Tempo*, 19th April 1986.

the prevention of sources of possible conflicts in the future. Besides Indonesia should realise that Australia's position under the pressures of oil companies and the governments of West and North Australia, will strengthen its position.

On the other hand, Australia is not willing to give up the rich deposits of oil she regards as being under her territorial jurisdiction and on which she has conceded foreign oil companies the right to explore and exploit it. The concept of "a joint exploitation zone" proposed by Australia is a way out to jointly benefit the potentially rich oil deposits in the disputed continental shelf area.

Viewed from the communique resulting from the seventh negotiation, Indonesia is inclined to accept this concept, provided the boundary lines be agreed upon by the two countries, as a concession to Australia. With the concept being agreed by the two parties one may say that the economic factor, namely the issue of "the sharing of the rich oil and natural gas deposits" would be partly overcome.

Other factors which constitute obstacles are of technical and juridical nature which are interrelated. If an agreement could not be reached on account of those factors, this would only hamper the achievement of wider objectives, namely the economic interests and friendly relations between the two countries. Reversely, by reaching an agreement would not only promote the relationship between the two countries, but would also eliminate the source of conflict owing to the indistinctness of the existing boundaries. Its importance has increasingly been felt in view of the delicate relationship between the two countries on account of the fact that differences of views and philosophy may affect the relationship.

In view of the position of the two countries being so far apart to reach an agreement, it appears that a political decision is required in order to settle the aforementioned problem. And this would greatly depend on the political will of both countries to settle the prevailing differences in principles, so as to reach a mutual agreement.