

ARF Workshop: Dispute resolution and law of the sea

Disputes between States are a regular feature of a complex world of inter-state relations and interaction. While States may disagree about a range of issues, they are also under an obligation to explore avenues for resolving their disputes in accordance with international law. The rules-based international order provides a range of mechanisms for States to resolve their disputes peacefully.

Traditional methods of dispute resolution such as negotiation, arbitration and adjudication have provided durable solutions to States. In the law of the sea context, the 1982 UN Law of the Sea Convention focuses on dispute resolution, emphasising the need for States to engage with one another expeditiously to solve their disagreements. There are numerous examples from ARF members of disputes that have been resolved peacefully through compulsory and voluntary mechanisms, not only in relation to law of the sea, but also at the intersection of law of the sea and other international law issues (such as territorial sovereignty).

Outside the suite of traditional dispute resolution mechanisms, there is the recent example of conciliation under UNCLOS. The conciliation between Timor-Leste and Australia delivered significant benefits to the participating States and warrants further examination. In particular, on 6 March 2018, Timor-Leste and Australia signed the *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea* (Maritime Boundary Treaty - MBT). This was a significant milestone: it ended a longstanding dispute between neighbours and, historically, was the product of the first conciliation conducted under the auspices of UNCLOS. 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 workshop proposes to provide a focused forum for States to discuss dispute resolution in the region, particularly as it relates to law of the sea issues. There are current disputes in the region on maritime boundaries, resource development and territorial sovereignty, which may benefit from a structured discussion on the peaceful resolution of disputes. The workshop will draw on regional experience, as well as academic and practitioner expertise. It will examine a range of past cases, with a particular focus the conciliation between Timor-Leste and Australia as a recent successful example.

Objectives

The objectives of the Workshop are to:

- Examine and discuss various avenues for dispute resolution under international law;

- Explore the conciliation between Timor-Leste and Australia, and outline the operation of the conciliation process under Article 298 and Annex V of UNCLOS (composition of commission, rules of procedure, final report etc); and
- Consider emerging issues in dispute resolution in the region.

Co-chairs and Participants

Timor-Leste, Australia and an ASEAN member will co-chair the workshop

All ARF participating countries are invited to send representatives with responsibility for international law of the sea and/or border issues from relevant ministries/ agencies. Participants are encouraged to present their views/ideas on relevant topics of choice. Representatives of the Timor-Leste and Australian negotiating teams, the Conciliation Commission as well as international experts will be invited as speakers.

Reporting

The outcomes and recommendations of the Workshop will be reported to the ARF SOM and Foreign Ministers.

Administrative Arrangements

The Co-chairs will provide venues, luncheons and light refreshments during the course of the event. Participants are responsible for their own travel, accommodation and other incidental costs.