

## Maritime delimitation exercise

### Victoria – Tasmania maritime boundary



#### Background

Following the dissolution of the Commonwealth of Australia along state lines...

Official relations between Tasmania and Victoria have been courteous. However, popular feelings are strained with the media in each country blaming the other for the breakup of the Commonwealth. In a bid to ease tensions, Prime Minister Kraska of the Republic of Victoria recently invited his Tasmanian counterpart, Prime Minister Rothwell of Tasmania, to a 'goodwill summit', at which a number of cooperative initiatives were agreed. Foremost among these was an agreement, in principle, to delimit maritime boundaries between the two States.

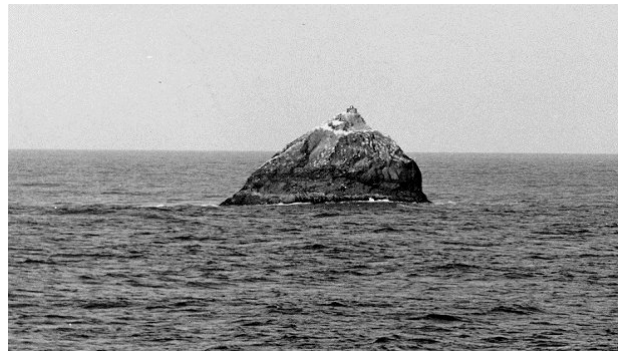
You have been selected, as experts on international legal and technical aspects of maritime boundary delimitation, to form your country's negotiating team.

#### Relevant facts

1. **The Federal Republic of Victoria**, a state with a developing economy, was established in 1851 and covers a land area of nearly 230,000 km<sup>2</sup> with approximately 1,200 km of coastline. It has a population of 6.7 million, around 3 million of whom live in and around Melbourne, which is its capital, principal port and an important transport hub.
2. **Corner Inlet**, a 600-square-kilometre bay located 200 kilometres southeast of Melbourne, is home to a large Victorian naval base. The inlet adjoins **Wilsons Promontory** in the west, most of which is protected by the Wilsons Promontory National Park and the Wilsons Promontory Marine National Park.
3. **The Republic of Tasmania**, a developed state to the south of Victoria, was founded in 1855. Its territory comprises more than 1,000 islands, including Tasmania itself (located 240 kilometres from Victoria), King Island, the Hunter Group, the Furneaux Group (including Craggy Island, Beagle Rock and Wright Rock), the Curtis, Hogan and Kent Groups, as well as Rodondo Islands Group. Although it covers an area of over 90,000 km<sup>2</sup>, it has a population of only 570,000 people, more than half of whom live in the capital, Hobart. Tasmania is a mountainous state, with abundant forestry and renewable energy resources.
4. **Curtis Island** is a part of Tasmania's **Curtis Group** with an area of 150 ha, lying in northern Bass Strait between the Wilsons Promontory and Furneaux Group. It is an uninhabited nature reserve and has been identified as an Important Bird Area because it supports up to 390,000 breeding pairs of the native Tasmanian short-tailed shearwaters.
5. The **Kent Group** are a grouping of six granite islands in Tasmania located in Bass Strait, north-west of the Furneaux Group. The largest island of the group, **Deal Island**, is home

to a Tasmanian military base. It has an airstrip, a lighthouse, roads, jetty, a dam and deep-water port, and it is central to the defence capability of Tasmania. It has no permanent population aside from stationed soldiers and naval officers.

6. The **Hogan Group** of Tasmania is a collection of six islands and islets located in the Bass Strait 40 kilometres southeast of Wilsons Promontory in Victoria. It is the home of one of the most famous archaeological sites in the world. Archaeologists have found evidence of human settlement on the site dating back at least 49,000 years and massive stone structures, apparently religious in nature, dating to at least 40,000 years. Today, **Hogan Island**, the largest in the Group, is home to a complex of five small stone buildings and one central temple. Over 500,000 tourists visit the site each year, including tens of thousands of Tasmanian and Victorian nationals, who regard the site as central to their cultural heritage. The island has a population of around 100 people, consisting of seasonal staff and caretakers, as well as archaeologists and scientists.
7. **Rodondo Island**, part of the Rodondo Islands Group in Tasmania, is a small, steep-sided 100-square-metre unpopulated granite island, located in Bass Strait, only 10 kilometres from Wilsons Promontory in Victoria. It is above water at high tide but almost completely devoid of vegetation.



**Rodondo Island**

8. Victoria and Tasmania are currently in talks to start negotiation for their maritime boundaries. Both States have acceded to the 1982 UN Convention on the Law of the Sea (LOS Convention) by depositing an instrument of accession with the UN Secretary-General in 2003.
9. Both countries claim a 12 M territorial sea and a 200 M exclusive economic zone, but neither has specific legislation on its baseline. The territorial sea and contiguous zone limits depicted on chart AUS487 are based on normal baselines, and should not be considered as a definitive depiction of the maritime limits of either of the two states.
10. While there could be a continental shelf that extends beyond the 200 M limit – extended continental shelf (ECS) – neither country has made a submission to the CLCS. Neither has provided to the UN preliminary information on their ECS although both are separately developing preliminary information to submit before the ten-year deadline. The issue of an ECS need not be addressed during the negotiations.

## **The Negotiations**

1. The objective of the practical exercises is for the two sides to negotiate an EEZ boundary agreement, if possible. If a full treaty is not possible in the time permitted, attempt to reach an agreement on the principles that will form the final agreement. The product could range from a formal treaty, to a memorandum of understanding (MOU), to terms of reference, to a joint statement; or an agreement on interim arrangements could be reached.
2. **General Instruction to both Teams:** The Heads of Government of both countries like each other and to further ties between their peoples, they strongly favour reaching a boundary agreement. Each has instructed their respective delegations to “get it resolved” based on coastal geography, including offshore features, in accordance with international law and the law of the sea.
3. Each team is to have one delegation meeting prior to the opening round of negotiations. It is expected that each member of the team will actively participate and lend his/her expertise towards the overall goal of negotiating a maritime boundary that serves the national interests. The structure and manner by which the team operates is at the sole discretion of the members of the team. The following are suggestions for the teams.
4. Each team should select a head of delegation who will be responsible for talking at the negotiating rounds and presenting the country’s position to the other delegation. (Others on the delegation may also talk at the negotiating rounds, if that has been agreed upon by the delegation ahead of time.)
5. Identify roles to play, if desired for other members of the delegation (i.e., representatives from the Dept. of Oil and Gas Ministry, Ministry of Fisheries, Coast Guard, Dept. of Defence, etc.)
6. Develop a negotiating strategy which would include an opening negotiating position and a final goal, taking into account the facts presented above. It is anticipated that several rounds of talks will occur, with delegation meetings in between the rounds. The **Final Goal** is to develop a written document with the other delegation on what you have agreed to (or perhaps a document setting out what you disagree on).
7. Please base your negotiations on the information provided in this briefing document. If you require additional information about relevant issues, please consult Clive – do not invent facts to suit your country’s position!
8. Select one or more primary note takers who should record the team’s strategies during the delegation meetings and the proposals made during the negotiations — perhaps one note taker could take notes during the delegation meetings, a second note taker for the negotiating rounds.
9. At the end of the exercise a brief discussion on what the goal was, what went right, and what went wrong.

