

**IN THE MATTER OF THE ARBITRATION UNDER
THE TIMOR SEA TREATY OF 20 MAY 2002**

- between -

THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE

- and -

THE COMMONWEALTH OF AUSTRALIA

PROCEDURAL ORDER N° 2

(Waiver of Confidentiality Requirements)

ARBITRAL TRIBUNAL:

**Professor Tullio Treves (Chairman)
Professor W. Michael Reisman
Lord Collins of Mapesbury PC, FBA**

REGISTRY:

The Permanent Court of Arbitration

7 January 2014

WHEREAS on 23 April 2013, the Republic of Timor-Leste (“**Timor-Leste**”) initiated these proceedings by way of a Notice of Arbitration served upon the Commonwealth of Australia (“**Australia**”) pursuant to the Timor Sea Treaty between the Government of East Timor and the Government of Australia of 20 May 2002 (the “**Timor Sea Treaty**”);

WHEREAS on 3 December 2013, Australia took custody of certain documents previously held by counsel for Timor-Leste;

WHEREAS on 5 December 2013, the Arbitral Tribunal held a procedural meeting with the Parties at the Peace Palace in The Hague, the Netherlands;

WHEREAS on 6 December 2013, the Arbitral Tribunal issued Procedural Order N° 1, adopting the Rules of Procedure for these proceedings;

WHEREAS Article 26(5) of the Rules of Procedure provides as follows:

Pending publication of the final award in accordance with paragraph 3 of this article, any unredacted award, as well as all written and oral pleadings, documents and evidence submitted in the arbitration, and verbatim transcripts of meetings and hearings shall remain confidential unless otherwise agreed by the parties;

WHEREAS in the course of the procedural meeting on 5 December 2013, the Parties further agreed that the verbatim transcript of that meeting could be used in connection with any proceedings before an Australian court in relation to the return of the documents held by Australia;

WHEREAS on 17 December 2013, Timor-Leste instituted proceedings before the International Court of Justice and submitted a request to the Court for provisional measures in relation to the documents held by Australia;

WHEREAS on 30 December 2013, Australia wrote to the Arbitral Tribunal, requesting a variation of Article 26 of the Rules of Procedure “to enable reference to be made to relevant aspects of the Arbitration in the proceedings instituted by Timor-Leste before the [International Court of Justice]” and to permit relevant documents to be submitted to the Court “for the purposes of defending the proceedings instituted by Timor-Leste”;

WHEREAS on 1 January 2014, Australia wrote further to the Arbitral Tribunal to clarify that “the orders sought from the Tribunal are not intended in any way to derogate from the ability of the International Court of Justice to make such confidentiality orders as it sees fit over any material which is present before that Court”;

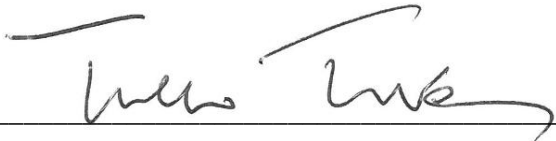
WHEREAS on 3 January 2014, Timor-Leste wrote to the Arbitral Tribunal, stating that it “has no objection to the issue of amended confidentiality orders so long as those orders relate to proceedings before the ICJ”;

THE ARBITRAL TRIBUNAL HEREBY ISSUES THE FOLLOWING PROCEDURAL ORDER:

- 1.1 The requirement of confidentiality imposed by Article 26(5) of the Rules of Procedure shall not apply insofar as is required for either Party to submit copies of correspondence, pleadings, and transcripts relating to this arbitration in the proceedings initiated by Timor-Leste before the International Court of Justice.

Dated: 7 January 2014

ON BEHALF OF THE ARBITRAL TRIBUNAL

A handwritten signature in black ink, appearing to read 'Tullio Treves', is written over a horizontal line.

Professor Tullio Treves
Chairman