**Case Concerning East Timor**  
(Portugal v. Australia)  
International Court of Justice Reports 1995

**Facts**

a. The International Court of Justice heard this case in 1995, and decided the case by fourteen votes to two.

b. In the Treaty of 1989 between Indonesia and Australia, the two countries negotiated terms of agreements regarding the exploration and use of resources by both parties found in the area located between the south coast of East Timor and the northern coast of Australia known as the “Timor Gap.” Portugal argues that Indonesia does not have the authority to enter into treaties regarding East Timor because Portugal is the legal administrative authority as decreed by the Security Council of the United Nations. Therefore, Australia has proceeded in unlawful actions against Portugal and against the people of East Timor and their right to self-determination.

c. The Plaintiff in this case is the Portuguese Republic (Portugal) who argues that when Australia signed the Treaty of 1989 with Indonesia regarding the “Timor Gap,” it did not respect the administrative authority of Portugal concerning East Timor, and thus, did not respect the right of the people of East Timor to self-determination.

d. The Defendant in this case is the Commonwealth of Australia (Australia) who asserts that Indonesia is the legal authority concerning East Timor. Thus, there is no dispute between Portugal and Australia because Portugal has no standing to bring this case. In addition, the Court does not have jurisdiction in this case because Indonesia did not give compulsory jurisdiction to the Court. Therefore, it did not give consent to have matters regarding Indonesia and its territories decided by this Court.

**Questions**

1. Is there a dispute between Portugal and Australia?

2. Does the Court have the jurisdiction to decide this case?

**Decisions**

1. The Court ruled that there was a dispute between Portugal and Australia regardless of whether Portugal had standing to bring this case. The Court reasoned that because there was a disagreement between facts and points of law, there was a conflict of legal views and thus, a dispute.

2. The Court declared that it did not have jurisdiction to decide this case. Because the fundamental question pertinent to this conflict was, “Who possessed the ultimate power to negotiate a treaty concerning East Timor, Indonesia or Portugal?” the Court would
have to decide on matters concerning Indonesian state and authority. Because Indonesia
did not give consent for matters regarding its state, conflicts, and conduct to be heard to
the Court, the International Court of Justice was unable to hear the case based on Article
35, paragraph 2 of the Court Statute, which states that parties must give consent to the
Court.

Principles

1. **Jurisdiction** is the main international law principle relevant to this case.

2. Consent to jurisdiction is an important international law principle that decides this case.

3. The definition of a dispute is when there is disagreement between two parties on facts or
the basis of legal points.

Conclusion

This case is important because it discusses the importance of jurisdiction in the Court’s
ability to hear and arbitrate a case. This is extremely important in international affairs and
international law when peaceful means of arbitration are sought to settle international disputes.
If a state does not recognize or consent to a court’s authority to decide on an issue, it is logical to
conclude that this state might not abide by the judgments of the court concerning their state
affairs. Therefore, peaceful settlements of disputes between nations could be difficult to achieve.

Bibliography

*Case Concerning East Timor (Portugal v. Australia) Judgments, I.C.J. Reports 1995.*

Submitted

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