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Some thoughts from La'o Hamutuk for the Regional EITI Conference in Timor-Leste

Firstly, we would like to congratulate the state of Timor-Leste for organizing this regional EITI conference, "Beyond EITI: Timor-Leste Transparency Model," as a nation which became EITI-compliant last year. This conference demonstrates Timor-Leste's momentum to show itself as a success story in managing and using natural resources transparently.

The coalition of Government, civil society and oil companies is proud of what Timor-Leste has achieved. La'o Hamutuk would like to give strong appreciation for the work of the State of Timor-Leste to comply and guarantee transparency in petroleum management in Timor-Leste."¹

However, we feel that this is not yet enough to ensure that petroleum revenues will benefit all our citizens today and in the future. Therefore, we hope that this EITI conference can develop some good ideas to help our Government and people to make wise decisions about revenue management to maximize the benefits for our people.

Through this document, we would like to share some perspectives that we think are key issues which deserve attentions from all entities in Timor-Leste.

Timor-Leste is enchanted with the "sweet song" of our new momentum.

After the international EITI secretariat in Oslo declared that Timor-Leste had become an EITI-compliant nation on 1 July 2010, the Government proudly and publicly showed Timor-Leste's success, declaring that "this step is an important signal for Government, Civil Society and Extractive Industries, resulting from hard work for a long time in collaboration with the Government led by Prime Minister Xanana Gusmão".²

We think this is a very important step, but its benefits will decrease if the success doesn't continue with plans and systems for good governance and transparency in implementing all state programs. Transparency should not just be a slogan, but must be implemented so it can hold all public institutions accountable and earn maximum confidence from the people. Because if transparency is only a slogan, corruption will grow, devaluing our democracy and reducing the legitimacy of the state.

Timor-Leste's Government has launched the "Transparency Portal," which we think is a good step, but is needs to be completed with accessibility to facilitate public access to information, as well as to become a source of education.

In addition, many agencies may impede the public from learning this information, with little access to the procurement process, at national and district levels, such as changes in contracts, public works tenders which don't follow proper procedures. A few examples are "Pakote Referendum" implementation, the heavy oil power stations, the Hera port, the Behau port, and other projects.

¹ <http://www.laohamutuk.org/Oil/EITI/LHonEITI02Jul10En.pdf>

² Timor-Leste complied with the EITI qualifications, the third country in the world to achieve this level of petroleum transparency.

Unfortunately, our newspapers, radio and television, pamphlets and banners which campaign to promote that Timor-Leste is a leader of the Asia-Pacific EITI process ignore these realities: policies which support confidentiality and secrecy in Timor-Leste. We observe “Compliant Countries” focused on the transparency targets they have achieved. Therefore, we think there is too much focus on the EITI process alone, but we need to also be concerned with with risks from current policies which continue to threaten transparency.

In addition, petroleum companies worldwide, including in Timor-Leste, often don’t take transparency seriously, but continually try to use legal and human weaknesses in Timor-Leste to maximize their own profits, even as they say they are ready to follow EITI principles to pay and publish their obligations to Timor-Leste. A few years ago, ConocoPhillips tried to illegally recover costs from the Firebird test well in the Timor-Sea, although we are lucky that our state was able to finally collect his money last year. Until today Woodside and ConocoPhillips refuse to publish the contracts for Greater Sunrise and Bayu-Undan. We appreciate and encourage the State to continue to enforce the companies’ obligations to pay what they owe.

Revising the Petroleum Fund Law is an obstacle to good governance of petroleum revenues.

Timor-Leste is extremely dependent on petroleum. Money from petroleum revenues dominates our entire economy and state activities. This year alone, \$1.19 billion of the \$1.31 billion state budget comes from the Petroleum Fund.

Today, many nations whose economy depends on petroleum revenues are failing, falling into long civil war, corruption, and escalating poverty. These situations happen when there is no good system for managing petroleum receipts. Many countries rich in oil end up poorer, because their state only thinks about spending their oil money as it comes in, and in the end nonrenewable resources are only a story from past generations. Leaders tend to see money as the solution to all challenges, and spend more on short-term activities, rather than investing for the long term. For example, Timor-Leste’s 2011 State Budget allocates twice as much money for overseas scholarships as for the national university, which would develop our own education system to reach many more students.

Fortunately, Timor-Leste established its Petroleum Fund in 2005, to “contribute prudent management of the Petroleum Fund for the benefit of current and future generations.”³ Therefore, we should reinforce the provisions of this law about good governance, transparency, accountability and Government’s responsibility for annual spending.

But unfortunately, the Government revised the Petroleum Fund Law, and Parliament approved these amendments last Tuesday. We are very sad that the revision weakens essential articles which safeguard our petroleum resources, allowing half the fund to be invested in financial markets (increasing the risk of losing money), using the Fund as collateral for borrowing, and weakening the sustainable spending rule. They undercut the role of the Investment Advisory Board and the Banking and Payments Authority, concentrating power in the Minister of Finance.

We believe that the revision of this law is a dangerous step, which allows the state to endanger future generations’ rights for short term opportunism. This decision reduces transparency, and holding this EITI conference is a diversion to distract the public from this reality.

In the last few weeks, several events in the global economy have occurred, including the plunge in oil prices, the fragility of the U.S. economy, downgrading U.S. treasury bonds, and wild fluctuations in the stock market. Investors all over the world are worried and uncertain. Therefore, we suggest

³ Preamble, Law No. 9/2005.

that the Government act deliberately, slowly and carefully in implementing the changes from the revised Petroleum Fund Law, because if we guess wrong, we will no longer be proud of our system for managing petroleum revenues.

The ANP, TimorGAP, E.P. and BPA are a few budgets which don't practice transparency.

Today, everybody considers Timor-Leste's extractive industry revenue management as excellent. The World Bank, EITI Secretariat and our Government see Timor-Leste as an example for other countries – but when we see what really happens here, our conditions aren't yet enough to guarantee transparency in the petroleum sector for our people's benefit. Our state and other institutions should be brave enough to recognize this situation, and not conceal reality behind sweet words.

Article 6 of the 2005 Petroleum Fund Law states that all petroleum revenues must be deposited in the Petroleum Fund. But unfortunately, not all this money goes into the fund. The budgets of the National Petroleum Authority (ANP), the Banking and Payment Authority (BPA), and the imminent TimorGAP national oil company are not included in the State Budget. They are partly financed by direct payment from oil companies for activities in the JPDA or money for managing the fund, undercutting transparency in the petroleum sector and the constitutional powers of Parliament to approve and audit the people's money.

Even worse, the money the ANP retains from companies is not included in the EITI report, which everybody thinks is best practice, number one in this region. The ANP is a Timor-Leste Public Institute, and should be financed through normal state processes, not as a separate state within the state. We believe that the state is obligated to create legal accountability for ANP – otherwise we only talk transparency, but don't practice it. However, we appreciate the voluntary transparency in the “publish-what-you-pay” pages on the ANP website, which is better (more disaggregated) than the Government's reports.

We would like to add that we raise the issue of the ANP not to discredit Timor-Leste's National Petroleum Authority. We do not doubt the ANP's integrity, capacity, independence and professionalism to manage and regulate oil industry activities in Timor-Leste. But when we establish a better and more effective model of transparency, resolving this should be a priority.

The Heavy Oil Project is being carried out without transparency.

In addition to the problems discussed above, today's policy of using petroleum revenues in the state budget endangers Timor-Leste's transparency model. The huge national “heavy oil” electricity project begun three years ago will cost nearly a billion dollars, and is done without transparency. According to the Transparency Portal, more than half of all state expenditures during the first half of 2011 went for this project.

There was no public consultation process, cost/benefit analysis, or legally-required environmental impact analysis by the Government or the companies implementing this project. The tendering process, contract changes, design changes, budget opacity and mammoth cost overruns raise doubts about transparency. The public doesn't know the impact of this project on their lives, there is no explanation of the risks of acid rain, ground water, and no public plan to mitigate or avoid these impacts. The Betano-Same community has protested the generation station in their area; the Behau port was built in a protected area – more examples of the lack of transparency around this project.

The Resource Curse

In many countries with oil and gas, including Timor-Leste, most of the benefits go to a few individuals and corporate profits. But often, petroleum earnings don't support their people, but become a devil which brings poverty to the true owners of these resources.

In many countries in Africa, the Middle East, Asia and Latin America, development of nonrenewable resources often brings a curse – war, fragility, dictatorship, repression, militarization, corruption, environmental destruction, inflation and poverty. This situation happens faster in oil-exporting countries with weak democracy and strong petroleum dependency, because they don't diversify their domestic economy while oil revenues are strong, and are dominated by leaders who would rather spend than produce.

Timor-Leste itself has already caught this curse, with our strong dependency on petroleum income. This money dominates state activities, and state activities dominate our entire economy. If state policies don't change this situation, our people – especially those in poverty – will not get the quality of life they deserve; socio-economic injustice and social conflict may increase.

The flood of petroleum revenues causes the state to ignore other sources of money. The Strategic Development Plan (PEDN) which the Government launched last month shows that Timor-Leste will depend on oil revenues for decades in the future, especially the Tasi Mane project, for which feasibility studies are allocated twice as much money in 2011 as the Ministry of Agriculture and Fisheries.

This year's budget allocation doesn't give enough attention to sectors like agriculture, health, education, tourism, fishing and others – but gives too much money to the problematic electricity project.

In addition, Timor-Leste's balance of trade shows that we are severely import-dependent for nearly everything. The National Statistics Department reports that in 2010, we spent \$288 million on reported goods imports and exported only \$16 million, 95% of which was coffee.

This is not good for our future, because our oil and gas wealth is small compared with other countries. Bayu-Undan will only provide income until 2023 – one more decade. Although we optimistically hope that the Greater Sunrise gas field will be developed, even that will only give 30 years more of income, and is not enough to provide a good life for all our people.

When our petroleum is exhausted, our people will not get their rights to health, education, and other development if we haven't developed our non-oil economy. Our people will go hungry when we have no petroleum money to import rice. We will not be able to buy university education from overseas, or to pay foreign experts, or teachers or doctors.

In summary, we think that this EITI conference should focus more discussion on ways to prevent or rescue oil-export-dependent countries, including Timor-Leste, to reduce dependency on oil, not only to discuss the EITI process.

Borrowing

Until today, Timor-Leste has no external debt to other countries or international financial institutions. Although we began nationhood in 2002 with an uncertain economy, Timor-Leste resisted pressure from the ADB and World Bank – the same institutions which support EITI -- to provide loans to finance state spending.

Since 2006, Timor-Leste has earned large petroleum revenues every year. Since 2007, oil revenues dominate the state budget. Unfortunately, this condition has not helped us avoid the temptation to borrow.

In 2009, the Government began looking for loans to finance infrastructure projects.⁴ So far, the Government has enacted several laws to open the way to borrowing, including the 2009 Budget and Financial Management Law, and the revisions to the Petroleum Fund Law and new Public Debt Law just approved by Parliament.

We think that the plan to borrow is not a wise policy decision. Experience shows that many nations who borrow end up failing, that loans benefit a few elite people but make most people poorer.

Petroleum-export-dependent countries are often tempted to use their oil money as collateral for borrowing. This situation occurred in the 1970s and 1980s in many countries, when IFIs and rich countries gave big loans to oil producers, based on their oil wealth.

Indonesia, Congo, Ecuador, Nicaragua, the Philippines, Argentina and other countries collapsed when debt became unsustainable, and the money had provided benefits for a few dictators and cronies, but most people were still poor.

Timor-Leste increases our own risks with the Government's plan to weaken Article 20 of the Petroleum Fund Law, to use part of the Fund as collateral.

We all agree that investing money to develop human resources, education, health and agriculture can help bring Timor-Leste out of poverty, but we are unhappy that the Government wants to borrow billions of dollars only for physical infrastructure.

Therefore, we urge Timor-Leste to think carefully before borrowing. Even if interest rates are low, we will have to repay the principal – after our oil wealth is spent. Repayments may obligate the state to reduce expenditures for public assistance, health, education, etc.

Finally, we conclude that EITI is a good first step, but there are problems relating to skills, dissemination and human resources which really need all our attention. La'o Hamutuk remains ready to work with Government, civil society, oil companies, international financial institutions, Parliament, political parties and especially Timor-Leste's people to help this nation improve and promote transparency, to benefit all our people. Thank you.

Dili, 26 August 2011

Juvinal Dias

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Researchers La'o Hamutuk

⁴ <http://www.laohamutuk.org/econ/debt/09Borrowing.htm#portugal>