

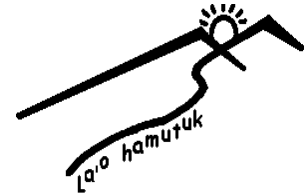
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## **Submission to the State Secretariat for Natural Resources Democratic Republic of Timor-Leste**

**From  
La'o Hamutuk**

## **Regarding the Proposed Decree-law to establish the Institute of Petroleum and Geology, I.P.**

**25 November 2010**

*This submission is based on the English draft documents distributed by SERN on 16 November 2010.<sup>1</sup>*

### **Introduction**

La'o Hamutuk agrees with the Government of Timor-Leste that accurate, comprehensive and well-managed information about Timor-Leste's geology, including our mineral and petroleum resources, is important to the future of this country. We support the establishment of an effective state organ to perform this function, although we think it can be done through normal government structures.

SERN is hastily conducting the public consultation on the IPG decree-law and bylaws together with the one on the PETRONATIL national oil company to enable PETRONATIL to be established in time to opt in to possible commercial discoveries from Eni's and Reliance's current exploratory drilling. There is no connection between IPG and PETRONATIL, and no reason that IPG needs to be enacted in a hurry. As we discussed in our submission yesterday on PETRONATIL,<sup>2</sup> the IPG should be done next year, with more time and consideration, rather than rushed through during the end-of-year budget and holiday crunch.

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<sup>1</sup> The draft decree-law and bylaws are available in English and Tetum on the SERN website under "seminars" and from <http://www.laohamutuk.org/Oil/PetRegime/NOC/10PETRONATIL.htm>.

<sup>2</sup> Available at <http://www.laohamutuk.org/Oil/PetRegime/NOC/LHSubPetronatil24Nov2010En.pdf>

## **Direct administration is more appropriate than indirect.**

Article 1 of the draft decree-law says that the Institute of Petroleum and Geology (IPG) will be an *Institutu Publico* “belonging to the State’s indirect administration,” under the supervision of the Ministry supervising the petroleum sector. We believe that it should be directly administered by the Government, as a directorate or department of a Ministry or State Secretariat. IPG’s scope includes non-petroleum minerals and geology, so it should not be limited by an agency whose mandate is restricted to petroleum, as described in Article 1, in case future government reorganization puts mining and petroleum under separate agencies.

IPG does not need administrative and financial autonomy. It should be set up as a “Directorate of Petroleum and Geology” within the State Secretariat of Natural Resources, which would use the budgeting, hiring, procurement, accounting and other administrative structures available to the rest of the Government, rather than having to create its own rules, policies and mechanisms. Its budget, as part of SERN, would be part of the General State Budget approved by Parliament, subject to the same requirements for transparency, accountability and auditing.

IPG’s primary functions will be to manage and archive information, produce reports and conduct research. As such, it is very similar to the National Statistics Directorate, part of the Ministry of Finance, which conducts the census and prepares regular reports. If IPG sells some of its information, the money it receives will be revenues into the state budget, like the “user fees” collected by many other departments.

Therefore, we suggest that IPG’s budget should be part of the General State Budget, and that IPG should follow staffing, procurement, oversight and other rules which apply to the public service. We are uncomfortable that article 16.1 of the IPG draft bylaws, which says that personnel procedures shall be “adapted as necessary,” creates an opening for nepotism, excessive salaries, or other forms of corruption.

The IPG responsibilities described in articles 3.3(h), 3.3(i), and 3.3(j) overlap SERN’s functions, and could cause confusion or duplication if the two organs are separate. Rather than dilute SERN’s personnel to another body (people knowledgeable about the oil sector are already divided among the ANP, SERN, DNMA, Petroleum Tax Department, BPA, PETRONATIL and other organs), creating the IPG within SERN will make both agencies stronger, and improve coordination, expertise and information flow within this important Secretariat and with the rest of the state.

The IPG should not be empowered to take out loans, as described in article 8.2(q) listing the Board of Directors’ powers. Borrowing from a foreign company or country should only be done by decision of the Government and National Parliament, to be paid back from the State Budget, and not using the Petroleum Fund as collateral. The IPG Board should not be able to commit the State to loan repayments.

## **IPG’s information should be available to all.**

The draft legislation does not specify whether IPG’s information be available at no charge (as similar information is in Australia), or whether potential users will have to pay a fee to receive it, and we can see reasons for both, in different situations.

However, we believe that the information should be equally accessible for all, under the same conditions. The availability of the data should be publicly announced. If one company is allowed to purchase a data package for a particular price, the same price should apply to all buyers. We do not object to a price reduction or exemption for Timor-Leste state agencies (including PETRONATIL), but all non-state actors interested in a particular data package should be offered the same conditions and prices, closing off an avenue for collusion, favoritism or corruption.

**IPG should be transparent and non-profit.**

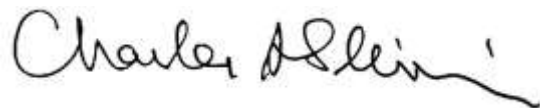
The Institute should publish its budget and annual report, as well as quarterly budget execution reports, detailing receipts and expenditures. (If our recommendation is accepted that IPG be a directorate of SERN is accepted, this will be done through normal Government processes.) IPG should not keep its revenues for its own use, but they should go to the state treasury like other user fees, with IPG's operational expenses being paid for out of the state budget.

Under Article 21, IPG would be empowered to be part of joint ventures, partnerships, etc., including the creation of "private law entities" and investing in foreign and national companies. We believe that this is inappropriate – IPG is not a business. Rather, if IPG wishes to undertake a project in cooperation with a company or other entity which is not part of the state of Timor-Leste, it should conduct a tender and sign a contract, like every other state agency. We can see no justification to give this Institute wide authority to operate like a private company.

Thank you very much for your attention and consideration, and we are happy to discuss these or other relevant concerns with anyone who is interested.



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Charles Scheiner