
R E Q U E S T

I **Rui Miguel da Silva Pinto**, citizen of Timor-Leste with electoral card no. **0592243** would like, with this formal letter to the head of the office of the *Provedor of Human Rights and Justice (Ombudsman)*, to request that your institution open an investigation concerning **1)** possible maladministration and negligence in the licensing process and beginning of the central electricity station in Hera, *Metinaru*, Dili and **2)** process of verifying information during the public tender. This request also provides information and an explanatory note, urging you as a citizen who wants to bring this case to the office of the *Provedor of Human Rights and Justice*.

Dili 23 April 2009

Rui Miguel da Silva Pinto
Requester

CC: Haburas Foundation

La'õ Hamutuk

President of Commission A of the National Parliament

SHEDDING SOME LIGHT ON THE PROBLEM

On 24 October 2008, the Government of the Democratic Republic of Timor-Leste (GoTL) revealed to the public, through a press communiqué ([Timor-Leste to electrify the nation](#) – which can be found at www.laohamutuk.org) that GoTL signed a contract with the company China Nuclear Industry 22nd Construction (CNI22) to build **two** electricity generation stations in Timor-Leste. According to this press release, the contract between GoTL and CNI22 states that in this contract CNI22 commits to:

- 1) “two power plants will be built, one in Manatuto with a 120 megawatt capacity and one on the South Coast with a capacity of 60 megawatts.”
- 2) At the end of this year (end of 2009) thirteen districts will have electricity 24 hours/day

According to information this requester has received, ([Project outline](#) - which can be found at www.laohamutuk.org), in the summary of the project from CNI22, the summary the company gave to the Government during the public tender, the company clearly stated that the company had plans to build two generating stations (one in *Manatuto* and one in *Same*).

According to an article in the newspaper *Kla'ak* published on 24 February (edition 42), and the document from CNI22 itself ([Project outline](#)) CNI22 said that Timor-Leste's infrastructure is not sufficient for them to *a*) bring things from a ship to dry land, and *b*) Timor-Leste's roads are not adequate to transport things from the port to the two sites where they want to build the generation stations.

According to the *Project Outline* we see that information about who will pay to upgrade infrastructure so that this project can proceed is not at all clear. However, the Government chooses to proceed. I think this action shows negligence on the part of the Government in the selection process for this proposal, but perhaps the leaders have other technical opinions about this issue.

On 19 February and 17 March 2009, the Non-Governmental Organization (NGO) *La'o Hamutuk* visited the site in Hera where, according to informal Government information, CNI22 will build an

electric generation station. This ONG spoke with people and took some photographs which show that the work at Hera has already started. (See [photographs at www.laohamutuk.org](http://www.laohamutuk.org))

The selection process, and the decision to build an electric generation station in Hera, I believe, must come from Government officials or the company. I think this because in Hera, one of the residents allegedly said that the Government purchased land (at \$2/m²) to rent to the CNI22 company so that it could build the generating station close to Hera Port, the place for our Naval component ([Map at www.laohamutuk.org](http://www.laohamutuk.org)).

The *Kla'ak* newspaper also published an article in its edition 44 which says that the Government already started activities in Hera, and also suggesting that the Government of Timor-Leste does not obey the rules of Timor-Leste.

“(according to) rule (subsidiary) 23/1997, about Environmental Management, all projects which can create an impact on the environment must have an environmental impact assessment and receive permission to begin project activities. (article 18, line 1).”

Because construction activities in Hera have already started, the requester asks the Provedor to find out if the Government indeed gave permission to CNI22 to begin the project, if so I think that the Government, demonstrates negligence and maladministration because the Government cannot give permission to a company if the company has not done an environmental impact assessment.

When we see that companies change their place and choose a site nearer the Port, we see that the company changed its thinking, and doesn't proceed according to what the Government said is written in the contract between GoTL and CNI22. Because the Government has not yet made photocopies available, the requester feels that the Government omits important information to the public.

The requester will believe that the Government did lie to the people when the Government itself stated in its press release ([Which can be found at www.laohamutuk.org](http://www.laohamutuk.org)) that in the contract the Government signed with company CNI22, this company received a mandate to build two generating stations. But leaders, I ask you, why does CNI22 “apparently” violate its contract with GoTL, and

why does GoTL not pressure this company to follow the road the two of them agreed to when they signed the contract?

The newspaper *Kla'ak* edition 44 also shows evidence that the bank guarantee which the company CNI22 gave the Government during the bidding process is apparently false ([complete document at www.scribd.com](#) look for Timor, China Nuclear) and that the registered Capital of this company is not enough to handle this big project, and that consequently the Government shows once more negligence in the process of verifying and validating documents which companies submitted to the Government.

The newspaper *Kla'ak* edition 44 (www.klaak-semanal.blogspot.com) also shows evidence that the company CNI22's plan to reduce pollution will not be not effective; this is also clear in the report from the international agency *National Toxic Network Inc.* ([which can be found at www.laohamutuk.org](#)) and information from their scientists and those at the *Australian Conservation Foundation*. The company's inadequate plan to protect the environment also violates what is written in our Constitution Article 61, and therefore I believe that the Government did not sufficiently check their information, which one more time opens the door to negligence the process of verifying and validating the documentation that companies submitted to the Government.

I hope that this explanation sheds light for your work, and that the PDHJ can enlighten the public with the truth about this case.

ANNEX

SHORT LIST OF ENVIRONMENTAL LEGISLATION RELEVANT TO THIS CASE

| Act type | Number | Subject |
|-------------------------|-------------|--|
| Law | No. 4/1982 | on Basic Stipulations on Environmental Management |
| Law | No. 27/1999 | Analysis of Environmental Impacts |
| Law | No. 9/1985 | concerning Conservation of Natural Resources and the Ecosystem |
| Law | No. 5/1990 | on Conservation of Biological Resources and Their Ecosystems |
| Law | No. 5/1994 | Concerning Biodiversity |
| Law | No.85/1999 | Hazardous and Toxic Waste Management |
| Law | No.19/1995 | Handling of Hazardous and Toxic Wastes |
| Law | No.23/1997 | Environment Management Act |
| Ministerial decree | No.50/1987 | Guidelines for the Analysis of Environmental Impacts of Proposed Projects |
| Ministerial decree | No.02/1988 | Guidelines of Establishment of Environmental Quality Standards |
| Ministerial decree | No.03/1991 | Effluent quality Standards for Existing Operations |
| Ministerial decree | No.13/1995 | Emissions Standards for Stationary Sources (air pollution) |
| Ministerial decree | No.134/1988 | Prevention and Overcoming of Pollution of the Living Environmental as the Result of Activities of Industrial Establishment |
| Government Regulation | No.20/1990 | Control of water pollution |
| Government Regulation | No.51/1993 | Environmental Impact Analysis |
| Governmental Regulation | No.29/1986 | Concerning Environmental Impact Analysis (AMDAL). |
| Governmental Regulation | No.18/1994 | concerning Natural Resources Tourism in the Use Zone of National Parks, Community Forest Parks and Natural Resources Parks |
| Government Regulation | No.22/1962 | On Water Management |
| Government Regulation | No.35/1991 | Concerning Rivers |

List of UNTAET Guidelines

Guideline 1 – Environmental Requirements for Development Proposals;

Guideline 5 – Prescribed Activities for Pollution;

Guideline 6 – Environmental Screening;

Guideline 7 – Storage of Fuel and Oil;

Guideline 8 – Ambient Noise from Stationary Sources.