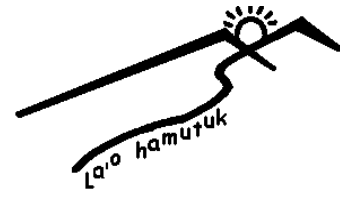


# La'o Hamutuk

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17 March 2015

To: Sr. Aniceto do Rosario  
President, RDTL National Procurement Commission  
Lecidere, Dili, Timor-Leste

CC: Dr. Rui Maria Araujo, Prime Minister of RDTL  
Sr. Alfredo Pires, Minister of Petroleum and Mineral Resources  
Sr. Kay Rala Xanana Gusmão, Minister of Planning and Strategic Investment  
Sr. Francisco Monteiro, President, TimorGAP  
Media, public

## Re: Tender RFP/045/MRPM-2014

Dear Excellency,

On 10 and 11 March, Timor-Leste's National Procurement Commission (NPC) published an Intent to Award notice in local newspapers and the Ministry of Finance website for RFP/045/MRPM-2014, "Consultancy Services for Pre-Front End Engineering Design (Pre-FEED) Study for LNG Plant Timor-Leste".<sup>1</sup> The \$3.8 million contract will be awarded to Foster Wheeler Energy Limited (UK).

The Intent to Award states that NPC will respond to written protests made within five days. La'o Hamutuk hereby protests this contract award, for the reasons explained below, and we encourage the National Procurement Commission to suspend processes, including contract awards, for all work related to the Beacu LNG plant, the Betano refinery, the Sunrise gas pipeline and the highway between Suai and Beacu.

The most important reason not to award this contract is that it depends on gas from Greater Sunrise being piped to Timor-Leste,<sup>2</sup> which will not occur in the predictable future. Therefore, this Pre-FEED design is just a waste of money. In order for Timor-Leste to benefit from an LNG Plant in Beacu, the following conditions need to occur:

1. Timor-Leste and Australian authorities need to reach a secure agreement about maritime boundaries or, at the very least, a long-term agreement about Sunrise unification, applicable laws, and sharing of revenues and risks. We agree with recent Government policy that the CMATS Treaty and Sunrise Unitization Agreement do not respect Timor-Leste's sovereignty and international law. However, they need to be

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<sup>1</sup> Documents relating to this tender, including the RFP and Bid Opening, are at <http://www.laohamutuk.org/Oil/TasiMane/Beacu/15Beacu.htm#LNGPrefeed>.

<sup>2</sup> In 2008, La'o Hamutuk published a book *Sunrise LNG in Timor-Leste: Dreams, Realities and Challenges*. Most of its findings are still relevant, and the book can be downloaded in English or Bahasa Indonesia from <http://www.laohamutuk.org/Oil/LNG/Report.htm>. More recent information about the Greater Sunrise project is at <http://www.laohamutuk.org/Oil/Sunrise/10Sunrise.htm>.

replaced by something else, hopefully more stable, before investors will be interested in putting money into the Sunrise project.<sup>3</sup>

2. Timor-Leste, Australia and the Sunrise Joint Venture partners need to agree that the Sunrise field should be developed with a pipeline to Beaçu and an on-shore LNG plant in Timor-Leste. For the last several years, the companies involved in this project have strongly argued that a floating LNG plant (FLNG) is the most profitable way to develop Sunrise natural gas. Because all sides refuse to divulge information, La'ó Hamutuk is unable to evaluate whether the companies and/or TimorGAP are wrong, but it is clear that no agreement will be reached in the near future without major changes in the companies' positions.
3. The Sunrise Gas Pipeline/LNG plant will have to be commercially viable; investors must be confident enough in the project's return so that they will invest the several billion dollars it will cost to develop. Over the last several years, the market price of natural gas has fallen sharply, due to non-conventional gas being developed. More recently, the fall in global oil prices has reduced the value of Sunrise output. This uncertainty, combined with reduced revenues, has caused petroleum companies all over the world to reduce their investment and spending on new projects, especially those with unresolved issues or questionable profitability.

Woodside Petroleum, the operator of the Greater Sunrise project, announced last month that it had "exhausted all activities" on Sunrise, and that it was shelving the project indefinitely. CEO Peter Coleman said "...we don't know what the regulatory framework is, we don't know what the fiscal framework will be, so we can't evaluate this project and we can't put it up to buyers as to being a viable project that they would be interested in."

4. Investors, whether they be private companies or the Government of Timor-Leste (through the TimorGAP National Oil Company), need to have money available, as well as sufficient certainty that they will recover their investment and make a profit, to decide to go ahead with the project.

Timor-Leste's Petroleum Minister has frequently stated that Timor-Leste is ready to spend \$800 million to subsidize a pipeline to Beaçu, and perhaps much more for the LNG plant and other Sunrise project components.<sup>4</sup> He has offered to buy the shares of oil companies who are reluctant to develop Sunrise because they see it is unprofitable. We hope that much deeper analysis is done; it would be foolhardy for Timor-Leste to spend a sizeable portion of its people's total wealth (revenues received already from the Bayu-Undan field) on a very expensive, risky project that commercial experts have decided not to invest in. National pride should not override technical expertise and common sense.

5. It is a challenging, complicated task to evaluate, plan, manage, build, operate and decommission a complex LNG plant project. Sadly, the record of Timor-Leste's petroleum authorities so far is not encouraging. The Tasi Mane project has suffered repeated delays, changes of plans, wasted money and lack of transparency and accountability. TimorGAP has yet to make a convincing case that any component of Tasi Mane is financially or socially beneficial, especially the Beaçu LNG plant.

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<sup>3</sup> In 2009, La'ó Hamutuk published a Briefing Paper on maritime boundaries at <http://www.laohamutuk.org/reports/09bgnd/FronteiraEn.pdf>. More recent information is at <http://www.laohamutuk.org/Oil/Boundary/CMATIndex.htm>.

<sup>4</sup> For examples from last week, see, <http://www.laohamutuk.org/Oil/Sunrise/2015/AustralianTimorOfferBuy13Mar2015.pdf> and <http://www.laohamutuk.org/Oil/Sunrise/2015/UpstreamTLDisappointed12Mar2015.pdf>

6. The Sixth Constitutional Government, which has been in office for only a month, needs to determine its priorities and plans, given Timor-Leste and the petroleum economy's new political and financial context. It will take time to do this properly, and Timor-Leste should not take on new contractual or financial obligations for projects which may well be cancelled.

Since its inception in 2009, the components of the Tasi Mane project have been frequently delayed, with cost estimates rising and falling without explanation. Little information has been made available about how much Timor-Leste will have to invest in this project and what the return on that investment is expected to be. The 2013 Annual Action Plan for MPRM and TimorGAP, included "*Finalizar o estudo de FEED para a fábrica de LNG*" but now, two years later, the contract for the Pre-FEED (not FEED) is only just being awarded. Given all the uncertainty, it would be better to wait.

During the last five years, Timor-Leste has spent more than \$20 million to explore the Sunrise pipeline option to Timor-Leste, and perhaps an equal amount more in legal costs. Can we afford to continue to do this?

Last month, La'o Hamutuk suggested that the 2015 state budget should be reduced to adapt to falling oil and gas revenues, the global oil price drop, and the rising U.S. dollar.<sup>5</sup> Although the Ministry of Finance declined to accept our recommendation, we continue to believe that caution is appropriate before committing Timor-Leste to additional expenditures, especially those with doubtful benefits.

A few days ago the World Bank and the Ministry of Finance released their *Public Expenditure Review on Infrastructure*.<sup>6</sup> Although the report does not specifically discuss the Tasi Mane Project (perhaps due to political concerns), it does underline the urgency of "addressing the challenge of 'White Elephants' (projects with low to negative economic rates of return.)" The findings of this report should be studied carefully before committing further resources to the Tasi Mane project, especially its Betano and Beacu components for which detailed design, contracting and construction has not yet begun.

During its four years of existence, TimorGAP has not demonstrated the financial, managerial or technical maturity necessary to manage a project of this magnitude, especially one of marginal financial viability. Last August, La'o Hamutuk raised concerns about TimorGAP's accountability, income, wisdom and transparency in a letter to the Court of Appeals.<sup>7</sup> A few months later, TimorGAP published its annual reports for 2011-12 and 2013.<sup>8</sup> Although pages 31-34 of the latter describe great dreams for the Beacu LNG facility, they are not accompanied by hard facts. On the contrary, the report shows that TimorGAP has yet to establish the 'single auditor' which is a fundamental part of its legal structure, and will not disclose the obligations it has imposed on Timor-Leste through its joint ventures and contracts. When TimorGAP presented to Parliament Committee C last November on the proposed General State Budget for 2015, its President left before the Members of Parliament could ask him questions, and his written presentation explained that the money allocated for

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<sup>5</sup> Our letter is at <http://laohamutuk.blogspot.com/2015/02/pm-araujo-recognize-falling-state.html> and the Ministry response is at <http://www.laohamutuk.org/econ/OGE15/OR/MFLHOR9Mar2015en.pdf>.

<sup>6</sup> [https://www.mof.gov.tl/wp-content/uploads/2015/03/A\\_Joint\\_Ministry\\_of\\_Finance\\_and\\_World\\_Bank\\_Report\\_on\\_Timor-Leste\\_Public\\_Expenditure\\_Review\\_Infrastructure.pdf](https://www.mof.gov.tl/wp-content/uploads/2015/03/A_Joint_Ministry_of_Finance_and_World_Bank_Report_on_Timor-Leste_Public_Expenditure_Review_Infrastructure.pdf)

<sup>7</sup> <http://www.laohamutuk.org/Oil/TimorGAP/14LHTRTimorGAPaudit5Aug14.htm>

<sup>8</sup> <http://timorgap.com/databases/website.nsf/vwAll/Annual%20Reports>

the LNG Pre-FEED in the 2014 budget hadn't been spent due to delays in tendering, but that the contract would be signed in November 2014.<sup>9</sup>

The 2015 State Budget carries over \$5 million for the Beçu LNG Pre-FEED study from 2014 in the Infrastructure Fund, but does not expect to spend it until 2016. It will add a million dollars more in 2017. The NPC should not award a contract for a questionable project which obligates Timor-Leste to spend its finite petroleum wealth, depriving our people of health care, education, rural infrastructure and other essential services.

We hope that the disputes with Australia and Woodside are eventually resolved. At that point, we will need a timely, objective and comprehensive cost-benefit-risk analysis of the Sunrise development options, independent of political agendas and pre-determined conclusions. If this analysis shows that an LNG plant in Beçu will provide the best net economic and social benefits to Timor-Leste's people, then that would be the appropriate time to contract for a pre-FEED design for the LNG plant. This will be many years in the future, with more advanced technology available and different market dynamics than those existing today.

The project would need a new pre-FEED study, as one done in 2015 will be obsolete and inaccurate by then. It should also have a broader Terms of Reference – the proposed pre-FEED study focuses almost entirely on construction methods and costs, with little attention to operation and none to environment, economics or decommissioning.

As the Ministry of Finance/World Bank study shows, and as every citizen's observation confirms, Timor-Leste has spent a lot of money on poorly-planned infrastructure projects which are not properly maintained and operated and provide little benefit. Cancelling this tender would be an important step toward ending this destructive pattern.

We encourage Timor-Leste not to add more to the several million dollars already squandered on the Beçu LNG dream. Design and construction of the Beçu LNG plant will cost billions, not millions, but now is a good time to stop and think. Some of Timor-Leste's petroleum-sector leaders have forgotten that every dollar spent on unproductive megaprojects is a dollar exported to foreign companies and no longer available for a sick child, an impoverished farmer, or a family which has no clean water and sanitation.

We realize that we are placing a heavy responsibility on the National Procurement Commission to begin the shift away from a long-established, damaging pattern of behavior. In his inaugural speech, Prime Minister Rui Maria de Araujo said that the new Government would be more "efficient, effective and accountable." He promised that "We cannot continue allowing waste and the ineffective use of public monies."

This is a good place to start.

Thank you very much for your attention, and we would be glad to discuss this further if you are interested.

Sincerely,



Juvinal Dias    Adilson da Costa Jr.    Charles Scheiner    Pelagio Doutel    Niall Almond  
La'o Hamutuk Economics and Natural Resources Team

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<sup>9</sup> [www.laohamutuk.org/econ/OG15/MPRM/TimorGAPPN7Nov14te](http://www.laohamutuk.org/econ/OG15/MPRM/TimorGAPPN7Nov14te)