



H.E. Mariano Assanami Sabino
Minister of Agriculture and Fisheries
Government of East Timor
Dili, East Timor

26 September 2008

Request to postpone the grant of a concession of land to GTLeste Biotech until adequate safeguards are in place

Your Excellency

The Centre on Housing Rights and Evictions (COHRE) is an international human rights non-governmental organisation based in Geneva, Switzerland, with offices throughout the world. COHRE has consultative status with the United Nations and works to promote and protect the right to adequate housing for everyone, everywhere, including preventing or remedying forced evictions. COHRE has been working in East Timor since 2000.

We are writing to you regarding the Memorandum of Understanding (MOU) of 15 January 2008 between the Ministry of Agriculture and Fisheries and GTLeste Biotech. We are concerned that the project has the potential to cause serious violations of housing rights, and in particular the forced displacement of a significant number of East Timorese citizens. COHRE is also concerned about the serious adverse environmental and social impacts should the project proceed. We are writing to request that Your Excellency reconsiders your position with respect to this case and postpones the granting of any lease to GTLeste Biotech until adequate administrative and legal safeguards against such adverse impacts are firmly in place. We further urge Your Excellency to immediately release information about the MOU, and the related lease and project, to the public.

The MOU provides the basis for the grant of a renewable 50-year lease over 100,000 hectares of land to GTLeste Biotech, a private Indonesian company, for sugarcane plantations. The land subject to any such lease would amount to almost one quarter of all arable land in East Timor and according to the MOU, would grant the exclusive right to plant sugarcane in East Timor to GTLeste Biotech.

COHRE is deeply concerned about the potential for violations of the Government's human rights obligations if, as reported, Your Excellency moves ahead with the project under current circumstances. According to reports received by COHRE, GTLeste Biotech has surveyed and identified several locations for the sugarcane plantations including areas in Suai, Ainaro, Manufahi, Natarbora, and Lospalos. However, in the absence of further information about selected locations, details of the planned lease, and the manner in which the project will be implemented, it is impossible to predict the number of households that will be affected as a result of the land concession to the company. It is possible to foresee, however, that a lease over such a vast area of land in East Timor will lead to significant displacement of communities from their homes and land. Regional and worldwide experiences confirm that economic land concessions of this kind have caused major upheavals of local communities.

Accra
PMB CT 402
Cantonments Accra
Ghana

Colombo
106 1/1 Horton Place
Colombo 7
Sri Lanka

Duluth
8 N. 2nd Avenue East, Suite 208
Duluth, MN 55802
USA

Melbourne
PO Box 1160
Collingwood, Victoria 3066
Australia

Porto Alegre
Rua Demetrio Ribeiro
990/conj.202, 90010-313
Porto Alegre, RS, Brazil

In entering into any such deals with private companies, we urge you to bear in mind the commitments the government of East Timor made to its citizens to uphold and respect their human rights through both the ratification of international law conventions and the Constitutional incorporation of these human rights obligations. As a state party to the *International Covenant on Economic Social and Cultural Rights*, the Government of East Timor is obliged to respect the right to adequate housing, including the prohibition on forced evictions, as guaranteed under Article 11(1).

Evictions are only lawful in very exceptional circumstances, which do not include the granting of economic land concessions to private companies for private profit. If exceptional circumstances do exist, all feasible alternatives to eviction must be explored in consultation with affected persons. In those rare cases where an eviction is considered justified, it must be carried out in accordance with general principles of reasonableness and proportionality and in strict compliance with procedural protections. These protections include, inter alia:

- Genuine consultation with those affected;
- The provision of adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- The provision of information to all those affected on the proposed evictions, and where applicable, on the alternative purpose for which the land or housing is to be used; and
- The provision of legal remedies, including access to legal aid.

Furthermore, forced evictions must not result in rendering individuals homeless, unable to access livelihoods or vulnerable to the violation of other human rights. As such, for any evictions to be lawful, the Government of East Timor is further obligated to ensure that adequate alternative housing and arable land is provided in consultation with the affected families.

In addition to the integration of the Government's international law obligations into domestic law in section 9 of the Constitution, the Constitution provides in section 54 that the requisitioning and expropriation of property can only occur for public purposes and must be preceded by the provision of fair compensation in accordance with the law.

Moreover, East Timor is obligated under international law to enact legislation and other legal mechanisms to guarantee security of land tenure including protection against forced evictions. In the absence of comprehensive land laws and the implementation of a land titling and registration mechanism to secure property rights of households and communities throughout the country, such guarantees and protections are not possible in the face of the grant of economic land concessions to private companies. Experiences from other countries show that the grant of such concessions at this early stage, before safeguards are in place, is premature, and will invariably result in severe and irreversible harm to the housing rights of local communities.

In view of the Government's international and domestic law obligations, COHRE strongly urges the Government of East Timor to:

1. Postpone any decision to grant a lease to GTLeste Biotech or any other private company over any land upon which households reside or farm, until adequate

safeguards are in place to guarantee security of land tenure and protect against forced evictions.

2. Following a thorough and transparent consultation process, enact comprehensive land laws to guarantee security of tenure for households and communities throughout East Timor, including laws that protect against forced evictions and that allow evictions to occur only in accordance with international law and Constitutional guarantees, such as the payment of fair compensation in advance.
3. Release to the public all relevant information concerning the MOU with GTLeste Biotech, and institute a transparent and accountable process for the public release of information and consultation with stakeholders in regard to similar projects in the future.

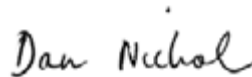
We would be happy to discuss this further with you, in person or via telephone. We would also be happy to assist you to devise ways to ensure that, in conducting development projects, your ministry complies with human rights standards and international best practice.

We look forward to your response. Thank you very much for your time and consideration.

Sincerely,



Salih Booker
Executive Director



Dan Nicholson
Coordinator,
Asia and Pacific Programme

CC

1. Prime Minister Kay Rala Xanana Gusmao
2. President Jose Ramos Horta
3. President of National Assembly Fernando Lasama
4. Minister of Justice Lucia Lobato
5. Secretary of State for Natural Resources Alfredo Pires
6. Secretary of State for Energy Policy Avelino Coelho
7. Provedor for Human Rights and Justice Sebastiao dias Ximenes