

March 1, 2005

Joint Submission from
The Timor-Leste Network for Transparency and Economic Justice (NeTEJ) and Lalenok Ba
Ema Hotu (LABEH)

Re: Comments on Draft Act on Petroleum Fund for Timor-Leste

Dear Members of the **Petroleum Fund Steering Group**

Thank you for giving us the opportunity to contribute our ideas on the “Draft Act on Petroleum Fund for Timor-Leste”.

As from the very first beginning of the public consultation of establishing Petroleum Fund for Timor-Leste our organization has followed its developments. In preparation of this submission, we conducted a public opinion poll through our radio talk show on February 24, 2004 at radio Timor Kmanek, our citizens called to voice their views on the said draft Act.

Due to the very limited time frame provided by the government for submission of comments. We lost a great opportunity to receive comments and opinions from our people in the districts, any way on February 28, 2005 we also staged a mini dialogue in Dili to seek for comments and views in regard to the Draft Act on Petroleum Fund for Timor-Leste.

LABEH is encouraged by the government’s recognition that consultation with the civil society in debating this Petroleum Act is essential. But we are concerned that the government may be missing an opportunity to address most of the important issues of transparency and accountability in this regard in a systematic and effective way.

Our people through the two conducted activities as mentioned above suggested that to avoid Timor-Leste from “the Paradox of Plenty” they commented so much on the political will of the government to receive ideas from the public and use part of it, if not all of it. Our people raised the three most important questions that form the basis of this comments:

1. Composition of the Consultative Council on the Petroleum Fund,
2. Confidentiality and Accountability in the Management of the Petroleum Fund,
3. Transparency in the Management of the Petroleum Fund (Assess to Information related to the Petroleum Fund).

Composition of the Consultative Council

The idea of former President, Prime Minister, Speaker of Parliament, and Minister of Finance to automatically become members in this council and serve for 10 years after their mandate in the affairs of the state and the appointment from the government and the President to serve for a certain period was strongly discouraged by the people.

Questions like, what if the one or more “formers” do not want to sit or be a member of the Council? What if, since the law may be in force this year and we do not have a former President, PM, SP and MF? Etc, would the positions be vacant until we have “former” President, PM, SP and MF as the draft Act suggests in Article 16?

Our people suggested that the mechanism for choosing Council members should be as broad based as possible or by national voting and election.

What measures shall be implemented to combat corruption and prevent misuse of public funds. As a first step, we suggest to the government that the “Petroleum Fund Oversight Committee” include the four organs of sovereignty with some certain amount of powers to investigate an act of corruption not just as a Consultative Council as the draft Act suggest. Their powers will need to be clear and how it will be applied. And to whom will it be accountable. Will be the other questions that will necessarily require clear answers

Confidentiality and Accountability

Our people feared that confidentiality in the management of the fund may grow to cover accountability and transparency. What is considered to be confidential should be clearly spelt out in the law so that our people would know what is confidential in the management of the fund.

Questions like, how would our people know what is confidential, if it is not spelt out in the law. What activity in the fund can be considered to be confidential and how would the government grantee accountability if the government chooses the auditor?

How could our people be confident in the transfer and the use of the fund since the court is not involved in the selection of the auditor for the fund? What is the need of the office of the Ombudsman, Inspector General and the High Court if they are not involved in the crosschecks and balances of the fund?

Transparency in the management

We request the reflection of the members of the Steering Group of the Petroleum Fund on the Statement made by H. E. Prime Minister Mari Alkatiri at a high level meeting of the Extractive Industries Transparency Initiative (EITI), held in London on June 17th 2003, hosted by UK Prime Minister Tony Blair.

“Fund assets will be prudently managed and invested offshore. The rules and operations of the fund will be transparent with stringent mechanisms to ensure accountability and prevent misuse. At the same time our fund will maintain the sovereignty of Parliament over revenue-raising and spending decisions”.

This draft Act now for Timor-Leste Petroleum Fund in chapter V- Article 15.1 stated that “there is hereby established a Petroleum Fund Consultative Council and Article 16 stated its compositions.

We considered this development as run counter to the statement of the Prime Minister in London that the Parliament will maintain the sovereignty of the fund. And call on the government to honor its statement in London to be able to win the trust of the international community and the trust of our people and to maintain its commitment on transparency and accountability.

The questions like, how will our people be able to follow the process of revenue and the mechanism of management of the Petroleum Fund. Transparency and accountability are not limited to information on what has been done or is being done, but also includes what is intended to be done next, what is intended to be done in each phase of petroleum development. More of that is demanded when dealing with the question of Petroleum fund which without doubt is an issue of a national interest.

Now, that the draft Act on Petroleum Fund for Timor-Leste is waiting its submission to the Parliament, nothing would be more important to the future of our people than the proper management of the petroleum fund. The government estimates that petroleum income will contribute over 75% of fiscal revenue and over 50% of gross domestic product (GDP) in the coming years.

The law needs to spell out that all payments made by petroleum companies, their agents and representatives to the government should be publicly published by the companies as well as the government publish what it receives from these companies.

The law needs to establish a “One Stop Information Center” for all related activities of the petroleum fund where ordinary citizens could get information on the fund.

General

Since we don't know what the final form of the Petroleum Fund Act will be. We recommend once more that a core condition of transparency and accountability be in-pregnant in the Petroleum Fund by calling the Council of Eminent Persons an “Oversight Committee” that would oversee the use and the management of the Petroleum Fund for Timor-Leste.

We call for more public debates and wider consultations of our people to dialogue on this important issue that will affect not only this generation but also the generations to come. This issue is of a national interest, should indeed become national debate.

Our vision is for the prosperity of the people through clean government. Our mission is to hold the government to carry out its promises on transparency and accountability and to encourage it to eliminate economic disparity and to combat corruption and poverty. Our Values are to develop team effort to monitor transparency and accountability in government operations, in an objective and independent manner, with non-violent, non-discriminatory, and non-partisan principles.

Our aim is to be consistently active in articulating the need for transparency and accountability on behalf of the people, to be consequent in the struggle to identify and combat corruption, and to coordinate and facilitate research and disseminate our findings.

LABEH is the only local NGO in Timor-Leste, that have focussed on transparency, accountability and combating corruption as its primary objective, so our research on the draft Act focussed on “Enhancing Transparency and Accountability in the Management of the Petroleum Fund.

NeTEJ is the only network of NGOs in Timor-Leste that have focused on the issues of transparency and economic justice.

Yours truly,
NeTEJ and LABEH