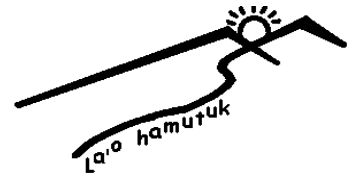


La'o Hamutuk

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23 May 2008

Mr. Alfredo Pires, Secretary of State for Natural Resources
Fomento Building, Mandarin, Dili, Timor-Leste

Dear Mr. Secretary:

As you know, La'o Hamutuk has closely followed oil and gas issues in Timor-Leste since before the restoration of independence six years ago. We share your goal of maximizing the benefits of petroleum development for Timor-Leste's people, and ensuring that this development is transparent and well-understood by all. We believe that we have played an important role in helping to bridge between the knowledge, priorities and viewpoints of governments, civil society, petroleum companies, foreign experts, international institutions, the Timorese people and the media.

La'o Hamutuk appreciates the willingness of your Secretariat and its predecessors to meet with us regularly to explain the Government's plans, perspectives and activities in the oil and gas sector. However, we are concerned about the lack of information and consultation regarding pending legislation about regulating petroleum development.

La'o Hamutuk has asked several times about pending legislation to establish a National Petroleum Authority (NPA). Your special adviser has told us that you do not plan to hold a public consultation on this law, which is fundamental to the future management of Timor-Leste's most important and dangerous resource. We believe that this approach is contrary to the interests of the people of Timor-Leste, to the law and Constitution of this country, and to often-repeated promises by AMP leaders to respect transparency, good governance, accountability, democracy and the rule of law. We urge you to reconsider.

As you may know, La'o Hamutuk has participated in every Timor-Leste public consultation regarding the petroleum sector. During the previous government, we wrote detailed analyses of the proposed Petroleum Fund law (three times), the Petroleum Act and model PSC, the legislative package on restructuring petroleum industry activities (twice), the ENI seismic environmental plan and the local content guidelines. La'o Hamutuk has made three submissions to each of the Timor-Leste and Australian Parliaments regarding proposed treaties. We encouraged submissions from many others, including international experts and local and international NGOs.

We also made a submission to the only petroleum-related public consultation conducted by the AMP government so far, on the Reliance seismic environmental plan. All of our submissions, as well as many others, are on our website from www.laohamutuk.org/Oil/OilIndex.html.

We believe that our suggestions have helped improve management of Timor-Leste's petroleum industry. In some cases, such as the draft National Regulatory Authority for Petroleum, Natural Gas and Biofuels (ARNP) and national oil company (PETROTIL) laws

circulated in April 2007, our input led to avoiding mistakes which would have damaged Timor-Leste’s future. Because we brought dangerous provisions of those drafts to public attention, the time for consultation was extended and they were not enacted prior to the Fretilin Government being voted out of office.

We appreciate that the AMP Government is redrafting these laws, and that the TSDA and DNPG regulatory mechanisms will be combined in a National Petroleum Authority. We welcomed your announcement at La’o Hamutuk’s public meeting last September that you plan to pass a Petroleum Optimization Law and a Petroleum Depletion law, and that AMP is committed to improve on practices of transparency initiated by the Fretilin Government.

We were also gratified to see, in the State Budget for 2008 approved by Parliament last December, that one of the main programs of SERN for this year is (emphasis added) to “Draft **consult** and enact legislations for the establishment of the National Petroleum Authority and the Institute for Petroleum and Geology.” Under the SERN Action Plan for this year, we appreciated item III:

III. Establishment of the National Petroleum Authority (NPA) and the Institute for Petroleum and Geology (IPG)			
Drafting, consultation and enactment of the legislation for the establishment of the NPA and the IPG	The draft laws, regulations and strategic plans are done thoroughly	The draft laws, regulations and strategic plans are to be finished on time and ready to be presented at the Council of Minister in February.	80% of the Draft is to be ready by February 2008, and public consultation and enactment will be done thereafter. It is expected that by the end of March the legislation is enacted.

We are not concerned that the schedule has slipped. However, it now appears that SERN has decided to enact these laws without public consultation, ignoring its promise to Parliament and to the people of Timor-Leste. Prioritizing expediency over democracy contradicts the “Year of Administrative Reform” declared by the Prime Minister.

We understand that the Government through SERN intends to establish the NPA as a decree-law by the Council of Ministers, rather than allowing elected Parliamentary representatives to approve this important legislation. We believe that this is both a legal and a practical mistake, in violation of the letter and spirit of Articles 92 and 95 of the RDTL Constitution, as well as undercutting public confidence in a vital sector. La’o Hamutuk explained this in detail in our July 2007 submission on the package to restructure petroleum regulation, available at www.laohamutuk.org/Oil/PetRegime/Restruc/07RestructLHSub2Jul07.pdf (pages 4-6). If this legislation is pushed through as a decree-law, 13 Members of Parliament could force a Parliamentary Review under Article 98 of the Constitution, endangering the stability of this Government and the public’s confidence in it.

We are also concerned about the long-term stability of the regulatory regime for petroleum development in Timor-Leste. If the NPA is created by decree-law, a future government could modify it in the same way, in secret and without Parliamentary discussion. This possibility undermines the trust of buyers of Timor-Leste’s oil and gas, as well as petroleum companies who operate projects here, that agreements they sign will be honored for the decades that projects will operate. Timor-Leste’s regulatory regime must be built on solid, stable foundations as it is essential for the well-being of our state and future generations.

We understand that one of your priorities at SERN, as well as in the recent reorganization of TSDA, is to give Timorese people more responsibility and authority, and we agree with that.

However, these principles are appropriate for citizens as well as government personnel, and enacting legislation in secret contradicts them.

Furthermore, we have heard that some Timorese staff and international advisors in SERN feel that they have not been informed or consulted about the draft NPA law, and that the legislation was shared with Australian officials before being discussed among knowledgeable people in SERN. We encourage you to use the extensive experience, perspectives and expertise within your own Secretariat. It may be inconvenient to spend a few hours or days on internal consultation, but this legislation will be in effect for many years and each article improved now will avert larger problems in the future.

In his address to the Development Partners last month, Prime Minister Xanana Gusmão declared that the IV Constitutional Government is “supported by a set of principles and values: civic and human rights; tolerance and respect; transparency and good governance; social participation; and compliance with justice and law,....” We believe that these principles and values call for broad internal and public consultation on this legislation.

Thank you very much for your attention, and we look forward to reviewing the draft legislation and participating in a public consultation on the National Petroleum Authority Law, prior to its submission to the Council of Ministers and Parliament.

Sincerely,

The image shows three handwritten signatures in black ink. From left to right, they are: Viriato Seac, Tibor van Staveren, and Charles Scheiner. The signatures are fluid and cursive.

Viriato Seac, Tibor van Staveren, Charles Scheiner
La’o Hamutuk Natural Resources Team

Cc: Prime Minister Xanana Gusmão, Secretary of State for Council of Ministers Agio Pereira, Francisco Monteiro, Civil Society liaison Joaquim Fonseca, Parliamentary leaders , media, public.