

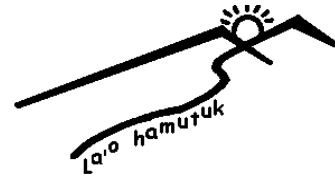
## **La’o Hamutuk**

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# **Submission to the Timor-Leste National Parliament**

**from the  
Timor-Leste Institute for Development Monitoring and Analysis  
La’o Hamutuk**

**regarding  
The Treaty between Australia and the Democratic Republic of Timor-  
Leste establishing their Maritime Boundaries in the Timor Sea**

**6 August 2018**

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## **Summary**

- We appreciate both nations’ success in defining our maritime boundary, after decades of struggle and frustration.
- We encourage Timor-Leste and Australia to ratify the Treaty expeditiously.
- Timor-Leste should maintain its effective, transparent system for managing petroleum activities.
- Our nation needs to focus its energy and resources on diversifying our economy away from petroleum dependency.
- Before spending more money on the Tasi Mane project, the Government, Parliament and the public should study a rigorous and objective assessment of its fiscal, social, economic and environmental costs, benefits and risks.

La'o Hamutuk has studied and advocated for a permanent Maritime Boundary between Timor-Leste and Australia since our founding in 2000. We joined with activists and other civil society organizations to create the Movement Against the Occupation of the Timor Sea (MKOTT) in 2004, demanding that Australia respect its neighbor's sovereign rights. We have also repeatedly urged Australia to abide by international legal principles, and to re-join international systems such as UNCLOS to ensure a fair and equitable outcome.

We congratulate both governments for negotiating the Treaty after protracted dispute, and we hope that they will both ratify the Treaty expeditiously to consolidate our sovereignty and to prevent Australia from taking even more oil revenues from what they now recognize as Timorese territory.

Petroleum activities under this Treaty must respect Timor-Leste's system of petroleum management, which is more transparent than Australia's. Companies operating in Timorese territory must comply with Timorese law.

Now that the maritime boundaries have been agreed, Timor-Leste needs to focus on urgent issues facing our nation, particularly the urgent need to diversify the economy. We do not believe that Timor-Leste's land and seas, even under the new Treaty, contain sufficient verified oil and gas reserves to continue to carry the nation.

## **We congratulate both countries for agreeing on a maritime boundary.**

The Treaty signed on 6 March in New York opens a new chapter in the history of diplomatic relations between Timor-Leste and Australia, which have been tense for many years. For three decades, Australia profited from Indonesia's illegal occupation and bullied Timor-Leste to relinquish resources in areas of the Timor Sea that Australia now acknowledges belong to Timor-Leste. We trust that this new Treaty will pave the way for our two nations to share the resources in and under the sea, and to build a relationship based on equality and mutual respect for each other's sovereignty.

We also want to congratulate the people of Timor-Leste and Australia, and other international friends, for advocating, protesting and persuading the Australian government to respect our sovereign rights. A fair maritime boundary was not achieved because of kindness from the Australian government, but as a result of persistent, relentless struggle.

In addition, this Treaty sets a global precedent: it is the first time one nation has brought a recalcitrant neighbor to the negotiating table through UNCLOS Compulsory Conciliation. The world has learned a new way to resolve boundary disputes.

## **The National Parliament should quickly and unconditionally ratify this Treaty.**

Although this Treaty was signed five months ago, neither Parliament has ratified it yet. Australia has begun its process, with submissions and hearings,<sup>1</sup> and we hope that they will complete it soon.

Although political leaders from all parties in Timor-Leste support the Treaty, neither Government nor Parliament has started their formal processes, and we encourage them to do so expeditiously. Ratification will not only bring the boundary into force, but will also allow Timor-Leste to receive the 10% share of remaining reserves in the Joint Petroleum Development Area (about USD \$4 million each month) which continues to go to Australia until the Treaty is in effect.

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<sup>1</sup> See [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Treaties/TimorTreaty](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/TimorTreaty). La'o Hamutuk's submission to the Australian Parliament is at <http://www.laohamutuk.org/Oil/Boundary/JSCT/2018/LHtoJSCT18Apr2018.pdf>.

## **Timor-Leste needs to maintain our transparent system for managing petroleum activities.**

Timor-Leste has taken important steps to reduce the impact of the 'resource curse' which affects most petroleum-export-dependent countries, including laws requiring transparency and accountability for managing petroleum projects. According to Article 30.1(a)(i) of Petroleum Activities Law No. 13/2005, all petroleum exploration and production authorizations are public documents, a principle which is also key to the Extractive Industries Transparency Initiative (EITI) that Timor-Leste has been committed to since 2003. We are proud to have been the third country in the world to be certified as EITI compliant. Although Australia has less rigorous transparency requirements, Timor-Leste should not weaken its good governance.

We are concerned that the Transitional Provisions and other documents related to the new Treaty state that "any Petroleum Activities entered into under the terms of the Timor Sea Treaty or the International Unitization Agreement shall continue under conditions or terms equivalent to those in place under those agreements as applicable." Sadly, the contracts for Bayu-Undan and Greater Sunrise, which were signed before Law No. 13/2005 was enacted, have been hidden from Parliament and the public. Similarly, contracts with Australia for part of Sunrise and for Buffalo have been kept secret. In contrast, all petroleum contracts signed by Timor-Leste since 2005 have been published, as the law requires.<sup>2</sup>

When the new Treaty comes into force, all contracts in the Joint Petroleum Development Area and in areas which had been occupied by Australia will be replaced by new ones between Timor-Leste and various oil companies, and these must comply with Timor-Leste law. Parliament should resist any efforts to weaken Timor-Leste's legal requirements for transparency, and the companies should be told that previous secret arrangements are no longer "applicable." Carnarvon's wish for Timor-Leste to enact "special legislation" to perpetuate Australian rules for Buffalo should not be granted.<sup>3</sup>

Timor-Leste should inform the oil companies that they are expected to obey Timor-Leste's laws and will not get exceptions to evade our standards. As many countries have sadly learned, lack of transparency in petroleum operations and revenue often leads to conflict, corruption, environmental damage and bad governance, as well as constraining economic development. Timor-Leste is proud of its transparent system of managing petroleum development and revenues, and we need to protect it.

## **Timor-Leste cannot rely on oil revenues forever; we must diversify now.**

Now that the Treaty is signed, it is time to prioritize diversification of Timor-Leste's economy. Revenues from finite, non-renewable oil and gas deposits will not last forever. This Treaty will provide additional revenues to Timor-Leste from Bayu-Undan and Buffalo, but they will total less than two years' worth of withdrawals from the Petroleum Fund. Although Greater Sunrise may eventually provide additional revenues and other economic benefits, La'o Hamutuk estimates that, over the next 40 years, these revenues will total less than half of the \$22 billion dollars we have already received from Elang-Kakatua, Kitan and Bayu-Undan since the restoration of independence.

Oil prices fluctuate, and nobody knows the exact amount of discovered and yet-to-be-discovered oil and gas under Timor-Leste's land and sea territory, so it is impossible for anyone to make an accurate projection of potential petroleum revenues. However, it is virtually certain that we will never again receive the \$3 billion/year that Bayu-Undan and Kitan provided from 2011 to 2013. At

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<sup>2</sup> The contracts are available at <http://www.laohamutuk.org/Oil/PSCs/10PSCs.htm> and on ANPM's website.

<sup>3</sup> <http://www.carnarvon.com.au/wp-content/uploads/2018/04/MarQ1.pdf>

projected spending rates, the petroleum wealth saved in our Petroleum Fund could be gone in less than ten years. Therefore, Timor-Leste should urgently build up our productive non-oil economy. La'ó Hamutuk suggests that agriculture for local consumption, light industry and ecotourism are key to providing nutrition, employment and sustainable livelihoods for our people.

### **We must objectively evaluate the costs, benefits and risks of the Tasi Mane project before spending more on it.**

Parliament, Government and civil society need and deserve an objective, comprehensive cost-benefit-risk analysis of the Tasi Mane project, considering the full project life cycle and all plausible scenarios. We have already spent nearly \$400 million of the people's money on a few initial components of the project. However, this is only a small fraction of the total investment which will be required, which could exceed \$15 billion. Before any more contracts are signed or money is allocated, Timor-Leste's people and decision makers should carefully study an in-depth, publicly available evaluation of the probable and possible fiscal, social, economic and environmental costs, benefits, and risks to our people. This analysis should include realistic projections of the spin-off benefits in jobs and contracts, as well as of the lost land and other economic opportunities resulting from this project, and the possible risks from supply chains, market opportunities, global economic conditions, competition, oil company wishes and performance, and other factors beyond our control which greatly affect the project's outcomes. It is not enough to wish for something and to consider the best possible scenario; Parliament needs realistic, hard data before you continue to spend public funds on the Tasi Mane Project.

This concludes our submission to the Honorable Members of Timor-Leste's National Parliament, and we are grateful for your attention to these concerns. We are happy to answer any questions or provide additional information regarding issues discussed in this submission, and would welcome the chance to discuss this topic further in person.

Written by researchers:



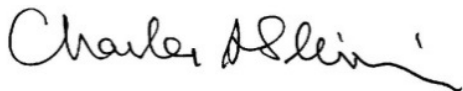
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