

La'o Hamutuk

Timor-Leste Institute for Development Monitoring and Analysis

I/1a Rua Mozambique, Farol, Dili, Timor-Leste

Tel: +670 332 5013

email: info@laohamutuk.org

website: www.laohamutuk.org



Translated from Tetum original, available at

<http://www.laohamutuk.org/Oil/Project/Cova/LHSubManapaTOR03Sep10Te.pdf>

**Submission to the
National Directorate for Environment
Democratic Republic of Timor-Leste**

from

La'o Hamutuk

regarding

Terms of Reference:

**Exploration Drilling in Timor-Leste Exclusive
Area: (PSC S06-03)**

To be conducted by

Eni Timor-Leste S.p.A.

03 September 2010

Introduction

La'o Hamutuk is a Non-Governmental Organization which has worked for ten years to monitor and analyze the development process in Timor-Leste. Our organization's objective is to help Timor-Leste avoid the resource curse, so that petroleum sector development in Timor-Leste will benefit the people and respect this nation's rights.

Therefore, La'o Hamutuk thanks DNMA and Eni for this opportunity to give our thoughts and perspectives to the Government of Timor-Leste through this public consultation on the Terms of Reference for Exploration Drilling in Timor-Leste Exclusive Area PSC S06-03 (the Manapa, Leolima and Lupal fields).

The plan for these test wells relates to Eni's activities in Block C. In this block, Eni has already submitted an Environmental Impact Statement for Cova-1 to the Government. Eni will drill the first well at Cova-1 in October, and expects to drill more wells in one of the three fields Manapa, Leolima and Lupal in November 2010, following Government approval. Eni says the likely second well will be in the Manapa field.¹

Based on the documents for the test wells in Block C, we would like to give our perspective and comment to further help DNMA make good decisions for the benefit of Timor-Leste. Our comments will discuss the following:

- Public Consultation
- The Cova-1 and Manapa, Leolima and Lupal fields should be treated separately, and Eni must collect "Baseline data".
- The Environmental Impact Assessment should include specifications for the BOP (Blowout Preventer) on Saipem 10000
- National jurisdiction over the Manapa field should be clear.
- Eni should not demand that DNMA approve the Manapa test well quickly.

Public Consultation

Overall, the public consultation process for this exploration well plan has already been improved, because it is the first time the company and DNMA distributed a Terms of Reference (ToR) to stakeholders for comment. Therefore, we greatly appreciate that Eni and DNMA consider that it is important to give this ToR to La'o Hamutuk so that we can share our perspective.

As DNMA facilitates distribution of the ToR documents to stakeholders for comment, we would like to encourage DNMP to consider the concerns of stakeholders, in order to maximize the effectiveness of their submissions. So far, La'o Hamutuk and other stakeholders have not received information about the Government's decision regarding Block K that Reliance wants to develop.

¹ Carrie Doncon, presentation of the ToR for exploration drilling in PSC S06-03, 24 August 2010.

The Cova-1 and Manapa, Leolima and Lupal fields should be treated separately, and Eni must collect "Baseline data".

Although Page 3, Section 2.1² says that Cova-1, Manapa, Leolima and Lupal are within permit area PSC S06-03, this does mean that the environmental impact "baseline data" can be collected only from one field (Cova-1). For the test drilling process for Manapa, Lupal and Leolima, DNMA should tell Eni to treat each field separately in its specification.

In the public consultation meeting³ that Eni recently held on the EIA for Cova-1, Eni explained that the Cova-1 EIA didn't include "Baseline data" from prior to drilling, because DNMA didn't ask for such data when it approved the Terms of Reference for Cova-1.

Therefore, for additional wells like Manapa, Leolima and Lupal, DNMA should ask the companies to provide baseline data taken before drilling starts. DNMA should also ask Eni to prepare data during and after drilling, once they have received permission from the Government to conduct drilling activities.

Therefore, we think that baseline data from the field before drilling is an important reference to enable DNMA to evaluate and study the environmental impact by comparing data from before and after drilling activities, using Eni's environmental report when drilling is finished.

Page 12, section 3.5 about the Biological Environment mentions that fauna includes fish, reptiles and many birds. The documents⁴ say that some animals are endangered, rare, vulnerable, or there is insufficient data. We believe that Eni should be careful and pay attention to the sea life, and provide data in its EIA for Manapa, Leolima and Lupal before, during and after conducting drilling activities.

Indonesian Law No. 23/1997 article 1.2⁵ states that environmental management is responsible to protect the environment, especially with policies of management, utilization, development, care, restoration, oversight and control. Article 1.3⁶ specifies sustainable development, with an environmental approach conscientiously enforced and integrated environmental planning with natural resources and the development process, to assure ability, prosperity and quality of life for current and future generations. 1.4⁷ says that an ecosystem is an element of the environment which is unified and integrated to create balance, stability and productivity.

This law⁸ shows that Eni should collect baseline data documents before drilling, as part of its policy of "management," "care," "control", and "restoration" of the environment. If Eni doesn't want to give baseline data, therefore Eni doesn't show their ability to protect the ecosystem, and perhaps DNMA also doesn't prioritize this issue, and the Government of

² Terms of Reference: Exploration Drilling in Timor-Leste Exclusive Area: PSC S06-03, Eni document TL-HSE-RP-005.

³ 24 August 2010

⁴ Table 3.2, Page 13, Page 14

⁵ Pengelolaan lingkungan hidup adalah upaya terpadu untuk melestarikan fungsi lingkungan hidup yang meliputi kebijaksanaan penataan, pemanfaatan, pengembangan, pemeliharaan, pemulihan, pengawasan, dan pengendalian lingkungan hidup;

⁶ Pembangunan berkelanjutan yang berwawasan lingkungan hidup adalah upaya sadar dan terencana, yang memadukan lingkungan hidup, termasuk sumber daya, ke dalam proses pembangunan untuk menjamin kemampuan, kesejahteraan, dan mutu hidup generasi masa kini dan generasi masa depan;

⁷ Ekosistem adalah tatanan unsur lingkungan hidup yang merupakan kesatuan utuh menyeluruh dan saling mempengaruhi dalam membentuk keseimbangan, stabilitas, dan produktivitas lingkungan hidup;

⁸ Undang-Undang Pengelolaan Lingkungan Hidup No. 23/1997

RDTL doesn't show its good will and fulfill its mandate to ensure sustainable development for the ability, prosperity and quality of life for current and future generations.

We have clear criteria⁹ from environmental destruction from changes to physical limits. If there is no data, how will Eni and DNMA guarantee that there were changes or migrations to the lives or habitats of some species before drilling starts?

Therefore, La'o Hamutuk believes that Eni has no legal basis for avoiding the requirements of this law to provide complete information in their Environmental Impact Assessment when they submit it for DNMA approval.

The Environmental Impact Assessment should include specifications for the BOP (Blowout Preventer) on Saipem 10000

Until now, EIA documents that DNMA received do not have documentation about the Health Safety and Environment (HSE) and Blowout Preventer (BOP) on the drilling rig. The companies say that these documents were given only to the National Petroleum Authority (ANP). ANP itself says that because DNMA doesn't yet have HSE regulations, HSE regulations applied to the JPDA (Joint Petroleum Development Area) also apply in Timor-Leste's exclusive area.

Because only ANP has regulations, therefore DNMA and other stakeholders, except ANP, cannot receive these documents in the EIA. We believe that, regardless of whether these are large, technical documents, the company should include them in the EIA that it proposes to DNMA, to help DNMA better study, evaluate and monitor Eni's EIA comprehensively, completely, and correctly. In this case, Eni must provide detailed specifications for the drill ship *Saipem 10000* in the EIA when it is given to DNMA.

National jurisdiction over the Manapa field should be clear.

In the public consultation meeting, Eni¹⁰ said that it may drill a test well in the Manapa field after Cova-1.

The map Eni published on Page 5, figure 2.2, shows the Manapa field overlapping the edge of permit area S06-03. Eni does not explain whether the jurisdiction over this field is entirely in Timor-Leste's Exclusive Area. We ask the Government of Timor-Leste, especially the State Secretariat for Natural Resources and the Ministry of Foreign Affairs, to give an accurate explanation of Manapa's jurisdiction, to avoid future Indonesian claims.

Timor-Leste and Indonesia have not yet agreed on maritime boundaries, or made an agreement on sharing production of seabed resources. However, under the principles of UNCLOS, there should be no problem for Timor-Leste to develop this field. However the CMATS Treaty that Timor-Leste signed in 2006, which adapted the 1989 Timor Gap Treaty between Australia and Indonesia, could help Timor-Leste to determine true jurisdiction.

Eni should not demand that DNMA approve the Manapa test well quickly.

Experience teaches us that rushed exploration by oil companies can have a huge impact on the future. La'o Hamutuk recognizes that Eni has contracted with the *Saipem 10000* to do test drilling in Block C for 90 days, including 45 days at Cova-1 and 45 days at Manapa. We also understand that it is more economical to drill these wells together while the ship is

⁹ Pasal 1.13 UU No. 23/1997

¹⁰ Carrie Doncon on 24 August 2010

here, but this is not in the interest of Timor-Leste, which is to minimize environmental risks.

When there was discussion in the public meeting about the Cova-1 EIA, Eni said that it is impossible for them to collect baseline data from Manapa before drilling, because of very short time limits between drilling at Cova-1 and Manapa that Eni has already determined. We think that the time limits between Cova-1 and Manapa are not a reasonable argument for DNMA to rush the Manapa approval process. Therefore, DNMA, as the regulatory institution mandated to protect the environment, must consider well that Eni, as the first oil company to drill in Timor-Leste's Exclusive Area, should not set a bad example or precedent for Timor-Leste's future. Because many times oil companies will worry about environmental issues only when they are legally required to, if it is more economical for them not to care.

We see that Eni wants to collect Baseline Data when DNMA has already given conditional approval for Eni to drill. We think that Eni cannot demand that DNMA make a rapid decision for the benefit and advantage of the company only, which gives a big risk to Timor-Leste.

We think that, although it is clear that Eni cannot conduct drilling activities if it has not yet received authorization or permission from the RDTL government, but Eni also shouldn't forget that they had already received a contract from the Timor-Leste government in 2006, and conducted seismic activities in 2007 and 2008. In February 2010, Eni distributed basic information about Block C. They have had plenty of time to collect baseline data.