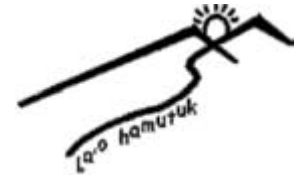


La'o Hamutuk

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3 January 2011

to: Dr. Manuel Tilman, President Committee C, RDTL National Parliament

cc: Other members of National Parliament, media, website

re: Timor-Leste General State Budget for 2011

Dear Mr. President, with our respect,

As you know, La'o Hamutuk gave a written submission to Committee C on 15 December 2010, and we participated in your public hearing for civil society organizations. We are grateful for your invitation to share our perspectives with Committee C, and hope that our information will help the National Parliament as you proceed with the difficult and critical work of analyzing, amending and approving the RDTL General State Budget for 2011.

You asked for our comments on three specific questions, which are given below. Just after the hearing, we learned of two other developments which we did not include in our submission, which we also believe are important for your Committee to consider, as follows:

The budget for the electric grid will not meet contractual obligations.

In our 15 December submission, La'o Hamutuk encouraged Parliament to ask the Government for cost projections for multi-year capital projects in the Infrastructure Fund. The next day, the Ministry of Finance gave Parliament Budget Book 6, listing annual expenditures for each project through 2015. We hope that Parliament has time to analyze this, even though it was provided after the Permanent Specialized Committees had finished their deliberations.

By far the most costly project is to electrify Timor-Leste: the generating stations at Betano and Hera and national distribution grid. According to Book 6, the Government will ask Parliament to approve the following expenditures (in thousands of U.S. dollars):

2010 (ref)	2011	2012	2013	2014	2015	Total 2010-2015
60,000	163,700	261,300	111,000	0	0	596,000

A year and a half ago, Parliament and others raised concerns which caused the Government to contract with ELC/Bonifica to oversee Chinese Nuclear Industry Company No. 22 (CNI22)'s construction and environmental performance. One year ago, the project was redesigned, and the completion was delayed two years, to the end of 2011. Parliament should insist that the Government provide full and accurate information about current and future costs, as these are not disclosed in the 2011 budget documents.

On 15 September 2010, the Government forced CNI22 to subcontract the construction of the power stations to the Indonesian company Puri Akarya Engineering, increasing the cost by

\$261,548,746.¹ The cost will grow significantly higher when CNI22 implements the Government's directive to subcontract much of the power grid to other companies, and when essential items omitted from the original plan (such as jetties for unloading the fuel) are included.

According to the ELC/Bonifica's October 2010 *Monthly Progress Report*,² Timor-Leste is committed to the following payment schedule (which does not include \$2 million paid to ELC/Bonifica every year):

2010 (ref)	2011	2012	2013	2014	2015	Total 2010-2015
124,681	380,000	115,931	113,431	3,000 (to CNI22 for management and operation)	3,000 (continues annually through 2017)	740,043

In summary, the Government is legally obligated to pay \$116,300,000 more in 2011 alone than Parliament has been asked to approve. We suggest that Parliament ask Government to amend its budget proposal to include this commitment so that you can make more informed decisions.

Some state organs pay more to advisors than to their own personnel.

As Committee C is aware, some state institutions rely extensively on Timorese and international advisors and consultants who are paid much more than public servants. Although some of these costs are paid by donors (such as the Public Financial Management and Capacity Building Program in the Ministry of Finance), many are Timor-Leste's own money. We would like to highlight a few organs whose allocation for "705 Professional Services" is more than they will pay for salaries and wages. These 13 organs receive only 6% of the total salary budget (without autonomous agencies), but they will receive 56% of the Professional Services allocation.

Organ	Professional Services Budget	Salary Budget	Ratio
State Secretariat for Natural Resources	1,200	220	5.5
State Secretariat for Security	337	72	4.7
President of the Republic	2,104	500	4.2
State Secretariat for the Council of Ministers	1,212	306	4.0
Whole of Government	171	50	3.4
Prime Minister & Council of Ministers	9,400	3,008	3.1
Public Service Commission	648	298	2.2
Courts	1,051	590	1.8
State Secretariat for Energy Policy	277	181	1.5
Prosecutor-General	933	699	1.3
State Secretariat for Promotion of Equality	234	205	1.1
State Secretariat for Defense	228	207	1.1
Ministry of Tourism, Commerce and Industry	999	916	1.1

¹ More information is at <http://laohamutuk.blogspot.com/2010/12/heavy-oil-project-delayed-over-budget.html>

² Relevant excerpts from this report are at <http://www.laohamutuk.org/Oil/Power/redesign/BonificaMonthlyReportOct2010.pdf>

Although some “Professional Services” costs are hidden subsidies or other exceptions, most of them go to paying high fees and reimbursements to individuals. We hope that Parliament will look into which of these are necessary and appropriate, giving value for the money. This is especially important right now, because the Government hopes to create several new agencies soon which will be exempt from civil service salary rules.

Overspending last year’s ESI in 2011.

President Manuel Tilman asked for La’o Hamutuk’s thoughts on using \$140.9 million of the treasury balance from the end of 2010 to fill the deficit in the proposed 2011 budget. This is the only way the Government can pay for \$985 million in 2011 expenditures without withdrawing more than the (greatly increased) Estimated Sustainable Income from the Petroleum Fund.

Last June, La’o Hamutuk’s submission to Committee C on the 2010 Rectification Budget explained our view that transferring \$311 million above the ESI from the Petroleum Fund during 2010 for the purposes stated in the budget documents would violate the Petroleum Fund Law. We wrote that “*We do not understand how increasing the treasury balance is ‘in the long-term interests of Timor-Leste.’*”³ Our submission last month on the 2011 State Budget⁴ said that the \$140.9 million being carried over from last year to this year should be considered as coming from the Petroleum Fund.

La’o Hamutuk believes that the Petroleum Fund law requires that money transferred from the Petroleum Fund for a particular year’s budget must be used during that year for the purposes cited in that year’s budget documents. Article 7.2 of the Petroleum Fund Law refers to the “amount transferred from the Petroleum Fund **for** a Fiscal Year (*O montante total das transferências do Fundo Petrolífero **para** cada Ano Fiscal*),” not “**in** a Fiscal Year.” This makes it clear that the money transferred should be expended during the Fiscal Year for which it was authorized. If some has not been spent by the end of the year it was appropriated for, it should be returned to the Fund.

Consequently, the requested transfer from the Petroleum Fund in the proposed 2011 budget exceeds the (imprudently optimistic) estimate of the sustainable income by \$140.9 million, and the Government must provide the information required by Article 9 of the Petroleum Fund Law.

The Government’s interpretation of the Budget and Financial Management Law regarding Special Funds would undermine Parliament’s Constitutional authority.

Articles 32.5 and 32.6 of Law No. 13/2009 on Budget and Financial Management state that expenditures from Special Funds require authorization from the Minister of Finance, and that Parliament must have previously been given estimates of revenues and expenditures for the Special Fund within the fiscal year.

³ See <http://www.laohamutuk.org/econ/OR10/10LHSubOR10En.htm#fund>

⁴ See <http://www.laohamutuk.org/econ/OGE11/LHsubComCOGE11Dec10En.htm>

The proposed 2011 State Budget Law includes general lists in Articles 9.2-9.3, with a little more information in Annexes II-B and II-C . However, this is insufficient to allow Parliament to adequately decide on more than \$350 million in expenditures during this year alone.

Budget Book 6 provides additional information about estimated expenditures from the Infrastructure and Human Capital Development Funds, although we believe that it should be more specific and detailed.

Parliament should amend Article 9 of the proposed Budget Law to incorporate the list in Budget Book 6 as part of the law, stating that the Government must inform Parliament in advance of any changes to that list, either between projects or from one year to another. If this amendment is not made, Parliament cannot fulfill its responsibility to approve “a breakdown of the revenues and expenditures of the State” and will violate Articles 145.1 and 145.2 of the Constitution of RDTL.

The Infrastructure Fund is a dangerous precedent and premature expenditure.

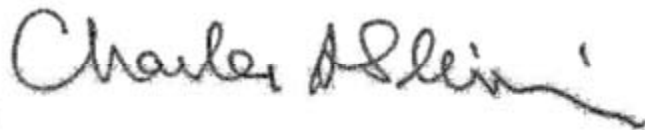
President Tilman also asked our views on the \$317 million allocated the Infrastructure Fund. These are explained in our December submission to Committee C, and further elaborated above. In summary, we urge Parliament not to approve the Infrastructure Fund until Parliament has debated and ratified the National Strategic Development Plan, and until the mechanisms to implement the Plan and manage the Fund are in place. It would be premature to appropriate so much money without clear legal processes to ensure that it will be managed well and spent wisely to advance the interests of the people of Timor-Leste.

Thank you for your attention. We hope that this information is helpful and welcome any comments or questions you may have for us.

Sincerely,



Juvinal Dias
La'ó Hamutuk Natural Resources Team



Charles Scheiner

PS. Ami husu deskulpa tanba ami seidauk bele halo karta ida ne'e iha lian Tetum, no ami espera katak ita-boot sira bele simu ami nia deskulpa. Obrigado.