



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE PRIMEIRO-MINISTRO

Speech to the Extractive Industries Transparency Initiative Conference
London, U.K., 17 March 2005

Excellencies, Ladies and Gentlemen.

Nearly two years ago, in June 2003 I attended the inaugural meeting of the EITI here in England stated my government's support for the EITI principles.

Thank you for once again inviting me to address this conference.

I also outlined my country's plans to ensure that we consolidated on to the steps we had already taken to establish long-term mechanisms for the Sustainable and Transparent Revenue Management in our petroleum sector by establishing a 'Petroleum Fund'.

"Proper management of revenues from this sector is critical, in ensuring a strong economic and stable political future, not only for the current generations, but for the future generations too," remains our major challenge. But I feel that we have put in place the basic mechanisms and structures to overcome this challenge.

In the last two years my government has undertaken public consultation on three pieces of petroleum legislation, the proposed Petroleum Mining and Petroleum Tax Laws and the proposed Petroleum Fund Law.

The first two are both now in parliament awaiting approval and the proposed Petroleum Fund Law will be in parliament soon and we hope approved by parliament to enter into force on 1 July 2005.

These laws and their passage through parliament comprise our endeavors to create a permanent regime for the sustainable and transparent management of our petroleum resources.

We have done this at this time because petroleum will for some years to come, whilst we develop the productive capacity of other sectors of our economy, continue to be the main source of income for our developing nation and we regard it as critical that the sustainable and transparent management mechanisms be in place from the beginning.

The Petroleum Mining and Petroleum Tax laws are designed to create a stable, fair and transparent regime for future petroleum exploration and developments in our exclusive national territory.

A parallel regime has been developed for our Timor Sea Joint Petroleum Development Area with Australia, which is still undergoing discussions with the Australian Government and is pending their agreement.

Our Petroleum Laws include the following features.

- The laws require the public disclosure of all contracts relating to petroleum activities.
- The laws operate with a model Production Sharing Contract under it, which is designed to avoid negotiated arrangements.
- There are no signature bonuses. All payments to government are anticipated and covered by the two laws.
- All contracts are awarded competitively and on technical merit to undertake the contractual obligations.
- The laws contain a legal requirement to publish the decision-making process for each contract approval.

In mid 2003 I agreed to publicly release the PSCs for the Bayu-Undan project, the only substantial producing field in the Joint Development Area of the Timor Sea. I felt that it was an important move to continue to enact the principles of transparency in the industry right from the beginning of the most significant oil and gas operation for our nation to date, as we had done from the beginning.

The receipts from petroleum activities in the Timor Sea Joint Petroleum Development Area have always been treated separately and distinctly and receipts published.

These receipts have always been retained in an earmarked account, as they continue to be, the receipts and accumulated amounts integrated into the annual budget of the state and published. This practice commenced before there had been an Extractive Industry Transparency Initiative.

In our three short years post independence we have already attained recognition for a record of transparency, which have included, in addition to what I have already mentioned above, the following measures:

- Publication of our state Budget
- Publication of our mid-year budget Review Papers
- Publication of the Audited Annual Treasury Reports
- Publication of the Audited Annual Reports of our Banking and Payments Authority (the future Central Bank of Timor-Leste)
- Publication of all papers relating to our meetings with our Development Partners

I would now like to speak on the Petroleum Fund we are working to establish by the start of the next financial year, 1 July 2005, and outline some of its Key Features.

- The first feature of this new law is that all petroleum revenue received from 1 July 2005 will go into the fund
- The Government will only be able to make withdrawals in a manner permitted by the law and approved by parliament and only after providing reports on the following:

1) A report specifying the “sustainable income” from petroleum wealth (both physical and financial) for the previous and current fiscal year.

2) A report from the independent auditor certifying the amount of the estimated sustainable income for both years.

- All inflows and outflows from the fund will have to be approved and audited by our National Parliament.

The Transparency Measures of the proposed Fund will include:

- An internationally recognized firm appointed by the Government will audit each payer of receipts from petroleum activities annually.
- Each payer may be required to provide further information if the auditor believes there may be a discrepancy in the payments received.
- If there is a discrepancy that cannot be accounted for the matter goes to the Minister.
- The Minister is required to publish the auditor’s reports.
- Further, in future all auditor’s report will be submitted to the constitutionally mandated High Administrative, Tax and Audit Court.

The Petroleum Fund draft law also creates a Consultative Council of eminent persons to oversee revenue management.

Parliament is required to publish the advices of the Consultative Council, including minority opinions, in an accessible manner for scrutiny by the general public.

As I stated earlier both the Petroleum Laws and the Petroleum Fund Law have undergone extensive Public Consultations, both nationally and internationally. We have incorporated many comments and submissions in the Petroleum Laws and are still in the process of considering the comments and submissions with regard to the draft Petroleum Fund Law.

My Government is committed to extensive public opinion, outreach on this matter. This has involved regular briefings and meetings in district centres outside of our capital where information through the normal media of communication is still not easily available. Community leaders as well as Nongovernmental Organizations and community groups attend these meetings.

Ensuring our people have understood and kept pace with developments in the petroleum sector has been an important task to which we have committed ourselves. For the last three years the Timor Sea Office, as part of my office, the Office of the Prime Minister, has undertaken a thorough and extensive public information campaign to ensure our people understood the Timor Sea Treaty which was signed with Australia on 20 May 2002 and which established the legal basis for the vital oil and gas production in Bayu-Undan in the Joint Petroleum Development Area.

This campaign included public education and consultation regarding the legal instruments and practical structures and mechanisms of petroleum activities in the Joint Development Area and the nature and amount of the receipts which were expected to be forthcoming from the Bayu-Undan project.

In August 2004, we held a three-day consultation on the petroleum mining and petroleum tax laws followed by meetings in all 13 district centres in which a member of my government, the Secretary of State with portfolio responsibilities in the sector personally participated by presenting our proposals to the public and answered questions from them on our proposals. The public consultation in August 2004 was televised and transmitted by radio nationally.

The Petroleum Fund proposal has undergone the same process. These were also broadcast live by radio and televised nationally.

I wish to announce that all the existing transparency and accountability practices involving reports and publications, together with those proposed in the future petroleum fund will be published publicly through a single transparency website to be shortly established.

A well-designed fund can however help build public awareness and support for a wise and long-term management of our national petroleum wealth. This is what we seek to do.

In fact, all the transparency measures in the world with respect to petroleum laws or petroleum fund laws alone will not secure the objective of eliminating corruption within the petroleum sector.

As I said at the EITI 2003 conference, good governance in this sector will only come by focusing all efforts on strengthening the overall institutional culture of government and the public administration by establishing institutions and mechanisms of decision making and implementation which function with maximum integrity throughout key institutions.

The transparency initiatives by my government should be viewed in this full context of an integrated whole of government institution building exercise to establish integrity systems in public administration and governance. - It is an exercise that goes beyond just measures in the petroleum sector and involves not only developing technical capacity but also developing real leadership capacity in all institutions of government and public administration.

Looked at in this context, it should then be understood that the purpose of our draft Petroleum Fund Law is intended to become an instrument to manage the petroleum wealth wisely for benefit of both current and future generations by doing the following.

- Building on our national Constitution and the institutions it empowers to perform specific tasks and exercise specific responsibilities.
- Strengthening key public sector institutions empowered with specific functions and responsibilities in the constitution, such as the role of Parliament as the democratically elected legislature (including legislating for the annual budget of the state for execution by the government), the Ministry of Planning and Finance and its role in preparing and implementing the national budget and the Central Bank, instead of inventing and establishing new ones.
- Place accountability, transparency and availability of accessible information as the fundamental principles of the funds management mechanisms and structures.
- Ensure a high degree of transparency of operations of the fund. Put in place comprehensive and accessible reporting by Parliament, the Minister for Planning and Finance, The Central Bank, Investment Advisory Board, External auditor, and the Consultative Council and the High Administrative, Tax and Audit Court.
- Establish an independent Consultative Council appointed by our National Parliament, including civil society appointees, which will scrutinize and report on:
 - The management of the Petroleum Fund
 - Whether spending of petroleum revenues is consistent with long-term considerations
 - Whether there is a discrepancy between Petroleum Fund receipts and payments made by companies as Petroleum Fund receipts (a core element of the Extractive Industries Transparency Initiative).

I would like to take the opportunity to express my government's position on the calls for legislative measures on our part to compel petroleum companies to publish what they pay. The reality is that there is reluctance on their part with respect to the potential loss of commercial proprietary and confidential arid sensitive information.

We cannot simply dismiss these concerns must work towards accommodating genuine concerns in this respect which do not compromise effective transparency with regard to payments.

Our draft petroleum fund law seeks to promote with maximum effectiveness the mechanism for opportunity for scrutiny and transparency in this regard. By having a process which enables an independent auditor to be able to reconcile payments made by oil companies and receipts received by government it gives the opportunity in law for effectively discovering inappropriate actions with respect to such receipts. This includes the power to undertake further specific audits and seek specific further details on possible discrepancies.

I confidently say that my government wants to establish the maximum possible measures that will enable scrutiny and transparency in this regard. I also commit that we will work

with the companies to seek to find a consensual approach on such publication that enhances transparency and work towards building trust in this area between all the institutions with a stake in this process.

We have received many submissions from national and international entities, some of which are here, in relation to our draft Petroleum Fund law.

My government will consider these in light of our specific policy and legislative goals as I have set out both here and elsewhere, just as we did with the draft petroleum laws. Where they can help to make the law better and are relevant to our overall objectives they will be adopted.

The mechanisms and structures we have proposed to establish in the draft petroleum law is intended also to increase public understanding of the Petroleum Fund and thereby to build public confidence and support for strategy of managing the petroleum wealth. We are happy that what we have proposed reconciles with this goal as well as other stated goals. This we have drawn from our broad public consultations and the public submissions received to date.

In this whole process we have been patently aware that our major challenge is to draw on the experiences from other petroleum producing countries. Their experiences to date give reason for serious concern to all developing nations that are dependent on petroleum revenues. But it is also positive and heartening to hear of the substantial progress that has been made in many countries affected by the petroleum curse.

We are very aware that unless well managed Petroleum has the potential to also be a curse instead of a blessing for us too. But we are doing this within our own national context, that is within the context of our constitution (which is widely recognized as a progressive and modern one), within the context of the need to strengthen the institutions established by our constitution and to consolidate on our achievements to date in building up our governance institutions.

Our efforts are necessarily broad in approach.

On the 11th of March this year, my government organized an International Workshop on Integrity in Public Administration where we invited leading advocates, campaigners and experts in the area of anticorruption and integrity systems. This was not because we have a problem with this but that we want to establish mechanisms to avoid it becoming a curse as it has in many developing countries.

This followed on previous similar international workshops on transparency and accountability in governance and public administration last year. Drawing on international best practice we have established an office of an independent Ombudsman for justice and human rights that is mandated by our constitution amongst other things to investigate corruption and make recommend action.

From the March 2005 workshop we consolidated the policy basis to now commence on worlds best practice declaration of interests for public officials, building on the code of conduct for public officials already in place. Our petroleum laws already prohibit public officials (including members of government and parliamentarians) from holding either directly or indirectly an interest in any entity that seeks or holds, authorization for a petroleum activity authorization or PSC.

I also propose to introduce legislation to empower authorities to investigate unjustifiable and inexplicable accumulation of personal property and wealth, including judicial power to seize such unexplained and unjustifiable assets.

Ladies and gentlemen, my government will not leave any stone unturned in our search for transparency and integrity in our public administration and in our governance of our country. These other initiatives are part of our overall efforts to attain transparency and integrity in the management of our nation's petroleum wealth.

We are driven in these endeavors because otherwise I am certain that we will fail to achieve the goals of our National Development Plan, and the Millennium Development Goals the cornerstone of which are human development and the eradication of poverty.

Thank you very much.