

“DEVELOPING TRANSPARENCY AND ACCOUNTABILITY WITHIN EXTRACTIVE INDUSTRY IN TIMOR-LESTE”

Part I Introduction

OIL AND GAS INDUSTRY DEVELOPMENT IN TIMOR-LESTE

Development within natural resource sector becomes as activator machine toward national development as well as determinant factor within the process of sustainable development of economic sector in Timor-Leste¹. Development within extractive industry sector is important, particularly toward national development process since Timor-Leste has abundant amount of such reserves, in the mean time State Budget has also depended on income coming from oil and gas industry (90%)². Development within oil and gas industry assumed as activator machine since non-oil sectors haven't been able to give contribution toward State Budget. In order to secure development within this industry, such industry then being put as priority within Strategic of National Development (PEDN2030), and maintain being set within government's work plan every year

Development within industry sector, particularly oil and gas continuously being put as national priority since Timor-Leste considered as new country which has abundant amount of natural resources, and this amount is sufficient enough to develop the country and bring its people into prosperity life

The huge amount of such resource has put Timor-Leste as producer country of oil and gas within South East Asia region as well as Pacific. Oil and gas then becomes as important sector to financially support the Democratic Republic of Timor-Leste (RDTL), since its income has able to achieve national development process within sectors like: Education, Social, Economy, Tourism, Politic, Culture and other productive sectors.

¹ SERN Policy. www.sern-tl.gov

² OGE 2013.

In order to achieve development within oil and gas sector, the State/Government has such rights as well as responsibility to guaranty transparency as stated within RDTL Constitution, article 139 *“Resource coming from off-shore, on-shore, deep and within water of territory and continental platform as well as Exclusive Economic Zone which are essential toward economic sector, should become State priority and justify and equally being used toward national interest ... And must give contribution toward the establishment of financial reserve based on appropriate law”*. In order to secure such transparency, the objective of developing Petroleum Fund Law is to guarantee as well *“Income which is coming from exploration and exploitation of oil and gas resource, therefore could bring benefits toward present and future generation. Such income from petroleum activity becomes as State priority, which equally being used based on transparency and accountability aspects*. Based on such perspective, Timor-Leste government has such obligation to practice transparency and accountability within oil and gas industry, therefore such income coming from this sector could bring significant benefits toward national development. In the mean time, such income could become as grace and able to lift people up from poverty.

Though Timor-Leste has strong foundation to use oil and gas income, which stated within RDTL Constitution and Petroleum Fund Law, however the utilization of such income should be reassured only toward Timor Leste’s economic development, means as well that both regulations has put transparency and accountability within the highest value, therefore these would be able to reduce State dependency with such income. In the mean time the utilization of such income should be guaranteed only to respond on people’s necessities and priorities. These foundations haven’t been able to sufficiently secure transparency and accountability, particularly when such income has been put into State Budget, aimed to finance national development. This becomes as serious case to be maximally addressed since according to Corruption Perception Index (CPI), from International Transparency 2012, an organization who conduct survey in respect of corruption and to identify as well transparency and accountability process among countries, Timor-Leste is on 113 positions among 176 countries. This result signifies that Timor-Leste has high corruption level within regional as well as international level. This means as well that more time is needed in order to develop transparency and accountability, therefore reduce corruption level in Timor-Leste and avoid this nation from curse of natural resource in the future

In order to guaranty transparency and accountability, Timor-Leste has a commitment to adopt initiative/means of Extractive Industry Transparency Initiative (EITI), as well as establish and implement: Petroleum Fund Law, Transparency Portal (Portal Transparansia), and Procurement Portal (Portal Prokuramentu) which could be able to support transparency and accountability process. Such initiative contributes toward transparency and accountability implementation, particularly within oil and gas industry in Timor-Leste. The adoption of this initiative is aimed to exert Timor Leste's commitment in implementing transparency and accountability within oil and gas industry, becomes as a nation which live within democratic climate and good governance, therefore oil and gas income could be able to bring benefits toward people.

The implementation of EITI in Timor-Leste has started in 2003, and former of Prime Minister himself DR. Mari Alkatiri had declared such commitment within World Conference of Transparency in London. In order to reinforce such commitment, the government in 2005 had developed Petroleum Fund Law. This law regulates oil and gas income to be put into an account prior to allocate into State Budget.

The philosophy of the establishing Petroleum Fund Law is to prevent Timor-Leste from the curse of natural resource and avoid dependency with oil and gas income since natural resource is considered as non-renewable resource³. The creation of Petroleum Fund Law was part of State's commitment aimed to accelerate transparency and accountability within oil and gas industry.

In order to complete such transparency model, Timor-Leste adopted Extractive Industry Transparency Initiative (EITI), aimed to promote transparency within oil and gas industry in Timor-Leste. This initiative becomes as colligation which uses global/International standard and aimed to increase community participation within transparency process, particularly within oil and gas industry.

³ Document on the establishing Timor-Leste Petroleum Fund, Ministry of Finance, October 2004, Executive Summary, pg. 4
Petroleum Fund Law N.º 9 /2005, 3 August, Preamble

Extractive Industry Transparency Initiative (EITI) in Timor-Leste as complementary initiative

Extractive Industry Transparency Initiative (EITI) is an international initiative which has its principal to promote transparency and accountability within Oil and Gas Industry. Such initiative becomes as a mean to gather stakeholders who work within Oil Industry such as; representative of Oil Company, Government and representatives of Civil Society Organizations. This kind of forum has such responsibility to create discussion forum, aimed to guaranty transparency within oil and gas industry. Therefore, strengthen the state in developing good governance, transparency and accountability, guaranty as well sustainability within oil and gas industry⁴

The implementation of EITI in Timor-Leste had started in 2003, as the 1st of constitutional Government declared its commitment to adopt such initiative and to implement it according to its principal and criteria. Such initiative considered as important since Timor-Leste has abundant amount of oil and gas reserves, therefore adopting this mean will complete transparency mechanisms which have already existed in Timor-Leste such as, Petroleum Fund Law. The implementation of this initiative/mean will also support clean governance culture, transparent and accountable within all levels.

The implementation of EITI will reinforce the mechanism of Petroleum Fund Law which had established already by the state, therefore guaranty transparency, accountability as well as good governance within the process of income collecting, particularly from oil and gas industry. This hopefully will guaranty the economic sustainability and state's policies as well; Means also secure present and future generation.⁵

The Objective of Assessment

The principal objective from this assessment activity is to identify the establishment process of EITI as well as the impact of its implementation toward Timorenses. The other objective is to identify the impact from EITI report dissemination and means to guaranty the process of

⁴ DRILLING DOWN, the Civil Society Guide to Extractive Industry Revenues and the EITI Edited by David L. Goldwyn.

⁵ Statement from DR Mari, in London

transparency and accountability in Timor-Leste. This assessment is also aimed to identify the dissemination process of EITI report, therefore obtain specific information in respect of benefits coming from the implementation of such initiative. Meanwhile, identify as well community participation within basis level, particularly in implementing transparency aspect within oil and gas industry.

Methodology used within Assessment process: This assessment combined qualitative and quantitative methodology to conduct analysis upon results of interviews and secondary data.

In order to complete this methodology, tool of Citizen Report Card (CRC) has also being used as a method to gather data, through interview and direct observation

Assessment's Scope

The area which has been taken by Luta Hamutuk for this assessment activity was based on places where an EITI report has been disseminated, arranged by EITI/MSWG secretary. Such area has been divided into 7 districts namely; Lautem District and Baucau District (to represent eastern part), Dili District and Aileu District (to represent central part) as well as Liguisa district, Ermera and Bobonaro district (to represent western part). Luta Hamutuk selected these districts since these areas have become target of. EITI National Secretary aimed to disseminate EITI report.⁶

These 7 districts have become target of primary data gathering through interviews with respondent. The composition of respondents were like; District and Sub-district administrator, Local Authorities (chief of village, youth representative, sub-village chief), representatives from Education department, teachers, Focal Points, and representatives from Health Department.

⁶ Collogue report of MSWG EITI-Timor-Leste

Part II

Implementation Portray

“Extractive Industry Transparency Initiative (EITI) in Timor-Leste”

Points of Transparency /EITI toward Timor-Leste

Transparency within oil and gas industry means information in respect of oil and gas which openly conveyed and being easily accessed by public. This also includes information in respect of oil and gas industry as well as other mineral, and information in respect of the process of exploration, exploitation and distribution. Such information should to regulate by certain regulation of Points of Transparency, therefore create such forum/mean to facilitate people in understanding this particular subject of oil and gas industry, including its payment-transaction system.

EITI Timor-Leste has voluntary spirit, which aimed to work and establish procedures /template of report to regulate payment coming from extractive industry toward government. Therefore Timor-Leste government along with its Extractive Industry will be able to develop report based on such template. EITI Initiative becomes as mean to guaranty the quality of work and control system. The adequate system of control will be able to support balance, therefore guaranty integrate participation from parties who work within oil and gas industry. Such transparency will also generate the sustainability of income distribution, coming from oil; and gas industry as well as other minerals.

In order to facilitate transparency and accountability, according to EITI indicators dissemination of information becomes as an important key. The adequate-systematic of dissemination information activity toward public, will determine climate of transparency, accountability and good governance in Timor-Leste⁷

⁷ Indicator Assessment Tool 20

Timor-Leste government, in order to guaranty the implementation of transparency and accountability had adopted EITI initiative in 2003 and still going to this present day (2013), means it has been last for almost 11 years. In 2006, Multi Stakeholders Working Group of EITI being established as a result from the work of Multi Stakeholders Working Group (MSWG) and the government. This group has already produced 4 EITI report, therefore brought Timor-Leste to become as a nation who successfully implement all criteria as well as principal of EITI initiative.

Beside of such work of Multi Stakeholders Working Group EITI-Timor-Leste, in producing and disseminating as well EITI report, particularly in respect of payment should to conduct by Oil Company toward government, and government in this case has also publicly reported such income, however such report and related information haven't been able to reach community. Most of communities have lack of information in respect of payment process should to conduct by Oil Company toward government. Though government has already status as compliant country, however dissemination process of EITI report and information especially toward urban community, still considered as inadequate and should to face different challenge.

Dissemination process of EITI report and information is important and becomes as determinant factor. Therefore, in order to guaranty transparency and accountability, MSWG EITI Timor-Leste publishes report that can be accessed by community within basis level; therefore such particular community will have sufficient knowledge in respect of income process from oil and gas industry.

Results from assessment has signified that transparency shouldn't merely about publication in respect of payment and income being managed by company and government, however should to include means to guaranty that such income would be able to bring people into prosperity of life. The other finding is that most of community hasn't been able to access EITI report and information

The important point of transparency is that, how to guaranty the quality of information among community, therefore increase community knowledge in respect of national development process, particularly within oil and gas industry; relevant information in respect of budget being transferred from petroleum fund into State Budget. In the mean time, to increase the quality of direct participation among community within basic level, this depends on dissemination process of information/data which should be sustained and adequate, therefore guaranty the quality of knowledge transfer of such information

The Journey of Dissemination Process of Extractive Industry Transparency Initiative (EITI) Report in Timor-Leste

The main core of transparency and accountability is adequate dissemination of information from national level into basis level.⁸ Such information should to comprehensively and simple, therefore able to be captured by community, since people considered as author/subject of transparency. Adequate dissemination will automatically contribute in increasing community's knowledge; therefore such knowledge could become a base in insisting relevant rights, particularly in respect of natural resource such as oil and gas.

Dissemination of EITI report in Timor-Leste has been started in 2010, just after MSWG Timor-Leste published the first report of EITI in 2009. This publication of such report has brought Timor-Leste as the first nation within Asia-pacific region, who is successfully implementing EITI criteria (*become as compliant country*).

Though Timor-Leste has already status as compliant country within EITI initiative, however the dissemination process of EITI report/information toward community within basis level still become preoccupation which need for serious attention. The dissemination process has already being implemented for almost 3 years, however this haven't been able to increase people's knowledge in respect of EITI implementation and report. This signifies that transparency and

⁸ Assessment Indicator 18, from criteria of EITI Implementation

accountability within oil and gas industry become as only fantasy, since most of information have only been talked within national level.

Based on assessment result which had conducted in 7 districts through interview with 91 persons in respect of EITI implementation in Timor-Leste, around 55% of respondent stated that they have lack of basic information in respect of EITI and its implementation. This also includes information in respect of oil and gas resource. In the mean time result also indicates that 45% of respondents have been able to access EITI report and other relevant data which disseminated by Multi Stakeholders Working Group (MSWG) in basis level. Among this 45% respondents, who have able to access EITI report, most of them stated that they still don't have good comprehension upon the content of such report, since it doesn't contain detail explanation as well as which also include page-numbering problem.

Around 30 villages which become target of assessment, there were respondent who most of them stated that they haven't been informed about EITI implementation in Timor-Leste during this time. Community, who considered as author of development and the owner of natural resource, has also questioned on dissemination process which has been done recently. Such question is raised since dissemination hasn't covered yet basis area, particularly villages, means that dissemination have only reach regional level, particularly toward public functionaries and some of local authorities. However, local authorities who have been involved within dissemination process stated that they still didn't have good comprehension upon EITI and the content of its report.

EITI Implementation, a fantasy to prevent Timor-Leste from natural resources curse!

The exploration and production of oil and gas in Timor-Leste are centered within Timor Sea area, particularly Bayu Undan and KITAN. The implementation of extractive industry in Timor-Leste is based on certain agreement and treaty, which principally stated that Timor-Leste has a commitment to guaranty transparency and accountability within this sector. This commitment has been government's initiative, including establishing EITI and Petroleum Fund Law. Both

regulations mandated to conduct publication of report upon income coming from oil and gas exploration within Timor Sea area, as well as its investment in global financial market.

In respect of EITI implementation, the government has a commitment to implement the principal of such initiative, therefore prevent the nation from natural resource curse. Natural resource curse, particularly oil and gas could be such advantage and curse at the same time toward its people. This depends on the extraction process toward such resource; it could become a curse if government gives license toward International/National Oil Company to conduct exploration-exploitation without giving maximum attention toward the sustainability of its income utilization. When exploration only bring benefits toward certain group, or when oil company do not consider the importance of environmental aspect, and other aspects like human rights as well social-cultural then it is when natural resource become as a curse. Such curse happened as well when transparency and accountability are being ignored, particularly within the tax payment process and other payment which applied within this industry.

In order to prevent from natural resource curse, the importance is that the state should guaranty transparency and accountability within oil and gas industry. Dissemination of information becomes as important key of transparency, therefore eradicates corruption practice. However, reality has showed that the process of information dissemination in respect of EITI is just a fantasy since it doesn't maximally conduct and the fact that most of community still has lack of knowledge in respect of EITI, though government has published already EITI reports 4 times. Such preoccupation, signifies that the publication of report haven't been able to guaranty that Timor-Leste can escape from natural resource curse. Though there are data in respect of payment from Oil Company toward government, however community within district level still questioned about transparency and accountability process from the allocation of income coming from oil and gas. People are still living within poverty, basic infrastructure are also insufficient, lack of clean water source and education, therefore need for certain period of time to say that the state has been away from natural resource curse.

In order to prevent from natural resource curse, dissemination of information alone in respect of payment should to pay toward government, isn't enough? However, the importance is that people also know such process adequately, particularly in respect of allocation of oil and gas income, therefore people will be able to conduct direct control upon such income.

Timor-Leste has been transparent within the process of income collecting, coming from oil and gas industry. However, to prevent the country from natural resource curse still need huge effort, and this will impossible to be realized if transparency and accountability within allocation of oil and gas income do not being guaranteed by government. Therefore it is important to give attention also toward the allocation process of such income within State Budget. This means huge preoccupation, since transparency and accountability within this area considered as insufficient. In order to prevent from natural resource curse, this will depend on discipline behavior in utilizing budget coming from oil and gas income, to invest only toward productive areas. However, findings from assessment have showed that around 54.9% of respondent coming from 7 districts, stated that they didn't know the number of budget which have being allocated already toward State Budget. They also stated that they didn't feel being benefited by oil and gas income which have been invested into State Budget. Community has also lack of information in respect of budget allocation as well as the implementation of oil and gas industry in Timor leste, therefore they perceive that preventing nation from natural resource curse is just a fantasy.

Community Participation becomes as indicator in “Promoting transparency and accountability in Timor-Leste”

In order to develop good governance in Timor-Leste, people/community participation considered as author of state reconstruction process. Community participation will determine the implementation of transparency and accountability within extractive industry. Direct participation from community will also guaranty the implementation of global transparency standard. Such participation could take different means, particularly to disseminate certain information, since community considered as principal agent to utilize such information adequately.

The principal value of EITI initiative is to put community participation within the highest position to implement such initiative. EITI initiative has also become as a forum which place community participation as an author of transparency implementation within oil and gas industry. People/community participation within this forum, are presenting Civil Society Organization (CSOs), government and Oil Company, to be able to make important decision in respect of the development of oil and gas industry as well as other minerals in Timor-Leste.

Community participation within the implementation of such initiative is aimed to monitor the process of oil and gas industry, therefore guaranty transparency and accountability of the Oil Company as well as government who receive and manage income coming from oil and gas exploration in Timor Sea area. In order to guaranty community participation within oil and gas industry, RDTL Constitution has put it within article 139, stated that, *“Resource coming from off-shore, on-shore, deep and within water of territory and continental platform as well as Exclusive Economic Zone which are essential toward economic sector, should become State priority and justify and equally being used toward national interest ... And must give contribution toward the establishment of financial reserve based on appropriate law”*. Such natural resources belong to the people. Within Article 40 of RDTL Constitution, it is guaranty *“Freedom to express and access information for all humankind. People have rights to express and convey as well as access information, it is forbidden to restrict public information, information of national interest. ”* Though RDTL Constitution and EITI initiative basically mandates the government to guaranty dissemination information toward community particularly in respect of oil and gas resources, however reality showed differently, since majority of people didn't know about the dissemination of information process and that the government has produced EITI reports 4 times.

Transparency Model in Timor-Leste

In order to develop transparency, accountability as well as Good Governance in Timor-Leste, the government has adopted transparency model such as EITI, Petroleum Fund law, Transparency Portal (Portal Transparansia) and Procurement Portal (Portal Prokuramentu). These models are

using International standard. Such initiative models are aimed to contribute and develop good-transparent of management system within the process of income collecting from oil and gas industry, therefore could give certain benefits toward present and future generation. These transparency models are also aimed to regulate fiscal policy, particularly investment from oil and gas income. Such models will be able to assist Timor-Leste to seriously promote transparency and accountability.

Petroleum Fund model is a mechanism which created by Timor-Leste, and this has adequately being practiced to guaranty the implementation of transparency and accountability through regular publication (three monthly) which aimed to convey the progress of budget investment from oil and gas income. This publication is based on Petroleum Fund Law, therefore considered as transparent and has its accountability since this has trough audit from independent auditor. Petroleum Fund model/mechanism, is aimed to accumulate income from oil and gas activity into an account, and guaranty its management and investment.

In order to complete Petroleum Fund initiative, the government has once again adopted other transparency model so called Extractive Industry Transparency Initiative (EITI), and establish as well other models such as: Portal transparansia on State Budget (<https://www.aidtransparency.gov.tl/>) and portal transparansia on procurament (<http://www.eprocurement.gov.tl>)". This portal is being adopted aimed to guaranty transparency and accountability within the collecting process of income coming from oil and gas industry.

Portal transparansia, becomes as a good practice toward public, therefore able to monitor the allocation process of state budget. This portal is developed to facilitate community, therefore able to put attention/monitor upon allocation of budget. Though Timor-Leste has already transparency system, however the dissemination process of information toward basis level still become a huge obstacle, since human resource number are limited and dissemination system considered as unsystematic.

Though the government has established transparency models, however rural community still has lack of information as well as knowledge in respect of transparency within oil and gas industry

and the implementation of such transparency itself. Extractive Industry Transparency Initiative (EITI) had adopted since 2003, and to this day has already produced its report; however government has established more transparency initiative aimed to complete such process. Based on assessment results, which conducted in 30 villages within 7 districts, it shows that around 55% of communities do not understand what transparency is, particularly within oil and gas industry. Respondents who have been interviewed stated that they do not know about oil and gas industry, though some of them participated within dissemination of EITI information activity, which conducted by MSWG 2 years ago. The publication of EITI reports has also created another preoccupation, since around 60% of target being interviewed stated that they do not have good comprehension upon such reports, since these do not explain about the implementation of EITI in Timor-Leste and explanation in respect of detail data which has made community face difficulties to convey complains.

Recommendations

Based on this assessment, Luta Hamutuk would like to recommend toward all entities namely: *National Secretary of EITI, member of MSWG and Ministry of Petroleum and Natural Resource (MPRM)* to put consideration in developing dissemination process of information as well as publication of EITI report toward public. Such recommendations are like below:

- In order to guaranty transparency and accountability in Timor-Leste, adequate-sustainable dissemination of information is needed particularly toward community who lives within remote area, because it has been 6 years since the government adopted this initiative in 2006, however still this fail to reach community within basis level, instead covers only certain groups,
- Dissemination of information shouldn't take Seminar former, instead create public discussion, and therefore facilitate community's level of comprehension in respect of transparency and accountability process particularly within oil and gas industry. Dissemination process needs for more specific time, reassuring that all people have sufficient knowledge about EITI things
- In order to guaranty that such information of EITI implementation in Timor-Leste, EITI reports as well as oil and gas resources reaches community within basis level; mutual collaboration to disseminate these information should to develop between Multi

Stakeholders Working Group (National Sec. of EITI), Government (MPRM), Oil Company and Civil societies.

- Ask MPRM and National Secretary of EITI, to improve future EITI report, since the old reports haven't been able to understand as there aren't any explanations in respect of data within the reports.
- In order to guaranty the sustainability of dissemination process, National Secretary of EITI as well as MPRM should to reach students of pre-secondary and secondary school and even high school, since students are considered as the future of the nation and transformer agent of community.
- Ask National Secretary of EITI to conduct publication in respect of EITI and oil and gas industry trough radio Timor-Leste, Television Timor-Leste (TVTL) and Newspaper or produce bulletin to be distributed toward villages within Timor-Leste territory
- Ask Ministry of MPRM to establish department which relates with publication, aimed to conduct dissemination of information in respect of oil and gas industry as well as EITI in Timor-Leste
- Ask government to conduct collaboration with chief of village or local Non-Government Organization (NGOs), aimed to share information within rural area, therefore community can have access into this particular information.
- Ask government to open free internet line or establish Internet center for rural community, therefore they can have an access toward EITI information