

La'o Hamutuk

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Making the Oil Companies Pay What They Owe

10 December 2010. Updated 22 June 2016

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Introduction

Timor-Leste is one of the most petroleum-export-dependent countries in the world. In 2009, revenues from selling our nonrenewable oil and gas wealth were more than three times larger than the entire non-oil economy. By 2011, 97% of the state's expenditures were paid for with money from the Petroleum Fund. Oil money enables for nearly everything Timor-Leste does.

But the oil companies cheat – they pay as little as they can get away with. In 2009, six years after Timor-Leste began to export petroleum, the country began to scrutinize their tax returns and enforce its laws, and has discovered what should have been expected – that foreign oil companies have not paid all that they owe. Current collection processes could obtain three billion dollars in back taxes and penalties from ConocoPhillips and other companies. Ongoing investigations are likely to find many more irregularities, as described in an [Australian television news report \(transcript\)](#) on 5 July 2012 and [confirmed by the Government](#) a few days later. On 12 July, [ConocoPhillips argued back in the media](#), claiming that "we've paid the taxes that have been assessed."

Much of this work was done by Bobby Boye, a petroleum tax expert initially paid by Norway to work in Dili, and later paid by Timor-Leste. In June 2014, the FBI arrested Boye on charges of defrauding Timor-Leste of more than \$3.5 million -- see [separate web page](#).

In early September, the newspaper [Tempo Semanal](#) (also [Tetum](#)) quoted Petroleum



Minister Alfredo Pires that Timor-Leste has already collected \$300 million from oil companies in back taxes, with many issues still in process, while Finance Minister Emilia Pires put the figure at \$362 million a few weeks later. [See below](#) for details.

On 2 October 2012, the Australian Broadcasting Company's *Four Corners* television broadcast a 44-minute documentary "Taxing Times in Timor" which explores many of these issues in depth. You can watch it on the [program's webpage \(including streaming video\)](#) or read a [transcript and references](#) provided by ABC. In addition to the documentary, ABC posted written responses from [ConocoPhillips](#) and [Woodside](#), as well as longer video interviews with Timor-Leste's [Prime Minister](#) (64 MB) and [Finance Minister](#) (45 MB). ABC also wrote an article [Miners owe East Timor millions in unpaid taxes](#), and stimulated an article in the Platts trade press [Timor-Leste pursuing unpaid taxes from oil and gas producers: report](#). La'o Hamutuk also wrote a [blog entry](#) filling in some gaps in the program, whose comments include a dialogue with the program's producer.

After the *Four Corners* program, commentators and journalists in Timor-Leste became prolific, although many did not understand the issues very well. Like many commentators, the NGO Forum also issued a [statement \(Tetum\)](#).

[Woodside responded](#) to the program with talking points for Timorese media, writing "Woodside does not accept allegations ... that it may owe unpaid tax to the Timor-Leste Government. Woodside has received a tax assessment ... and while we do not agree with the assessment, we have paid the assessed amount in full. We are, however, as Timor-Leste law allows us, appealing the assessment through the established procedures." After receiving no response to their appeal within the Ministry of Finance, Woodside filed a case in Dili District Court a few months ago, and is waiting for the court to continue the process.

On 11 October, the Government issued a [press release](#) explaining their focus on strengthening state institutions in the petroleum sector, partly in response to an [article](#) in the *Australian* newspaper.

Background

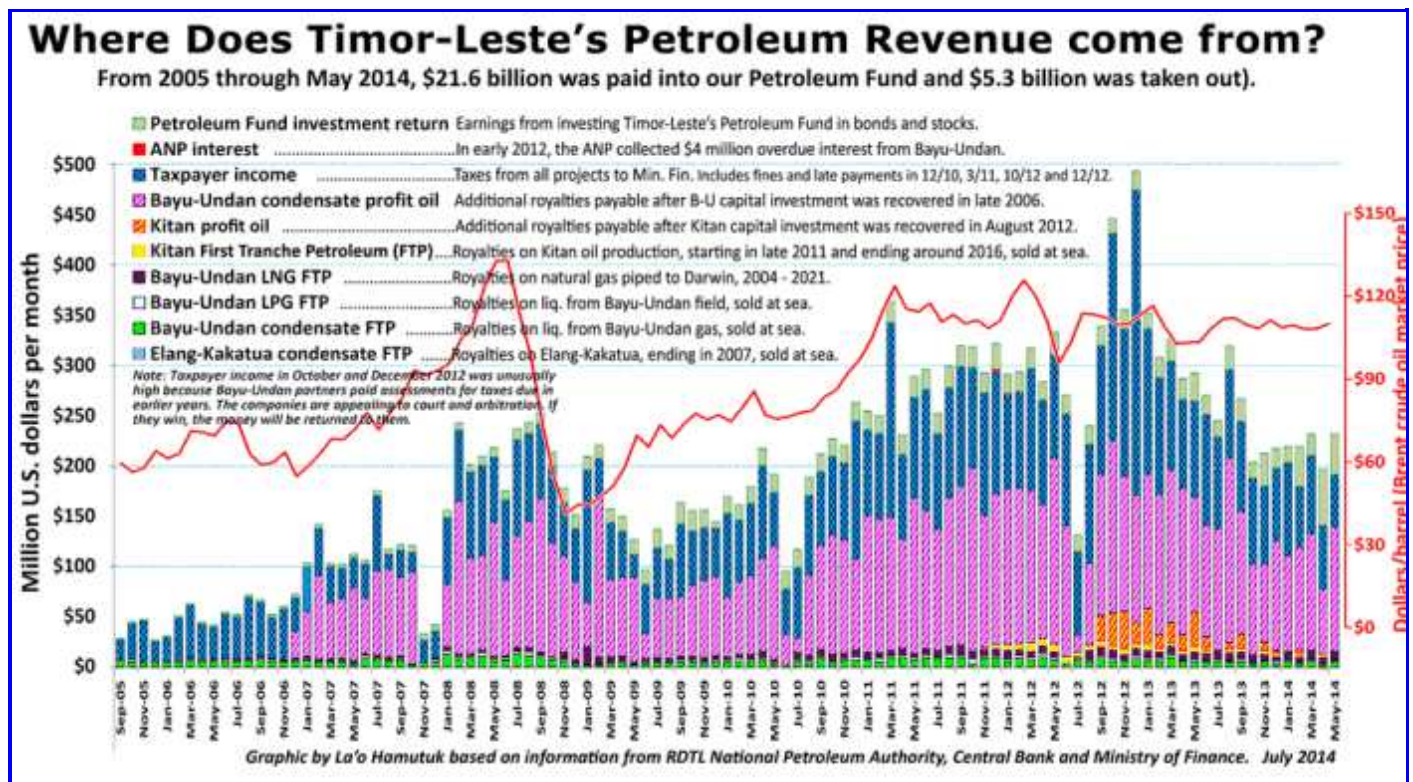
Timor-Leste depends on international petroleum companies to extract and sell our non-renewable oil resources, and to pay us a fair price for the oil, as well as taxes on their profits. But the oil companies have different loyalties – their managements feel obligated to make the most money possible for their



shareholders, the owners of private-sector companies such as ConocoPhillips, Woodside, Inpex, Shell, Santos, Eni and the other global companies operating here. They didn't become rich and powerful by giving money away to the countries where they operate.

This is an inherent conflict of interest. The companies want to maximize profit and minimize taxes, while Timor-Leste wants to get the most money possible for its people, and to ensure that the companies are socially and environmentally responsible. Laws and contracts are intended to guarantee that Timor-Leste receives our fair share of the resources we allow foreign companies to extract and sell, which belong to Timor-Leste under Article 139 of our [Constitution](#). The negotiation process starts with the contract bidding round, and continues through development and annual work plans approved by government regulators.

The companies are obligated to pay royalties and taxes to the National Petroleum Authority (ANP) according to their [Production Sharing Contracts](#), and to Timor-Leste's government under Timor-Leste's tax laws, including Indonesian laws in effect here. The ANP and the National Directorate of Petroleum Revenues (NDPR) in the Ministry of Finance are responsible to see that the laws are followed and the payments are made. Those laws were not enforced effectively until 2010, and the companies have illegally withheld payment of hundreds of millions of dollars that rightfully belong to Timor-Leste.



Petroleum taxes are complicated. In addition to paying a percentage of their sales of oil and gas, oil companies here pay tax on their income, tax on their profits, and an extra tax when a project becomes very profitable, after its capital investment has been paid off. Bayu-Undan, our only producing oil field, reached this point at the end of 2006, and currently pays about \$275 million dollars to Timor-Leste every month. But it should be more.

When taxes are calculated, the oil companies are entitled to deduct the expenses of operating the project through a process called "cost recovery." This means that Timor-Leste effectively reimburses the company for expenses related to the project. The contracts specify which costs are recoverable, and each month the companies supply a list of the expenses they have taken off their taxes. There's a lot of room for cheating, especially if the regulators don't carefully check to make sure that all the costs

claimed are legitimate expenses of the project.

This is a highly technical, complex and challenging task, which increases conflict between the people working for the regulators and their “friends” working for the companies. Regulators and auditors alike fall victim to “regulatory capture,” where the regulator forgets his or her loyalty to the people of Timor-Leste because he/she interacts with colleagues from the companies on a daily basis. The company representatives rarely forget their loyalties – they continually try to keep more money for their shareholders instead of paying it to Timor-Leste.

Until 2010, Timor-Leste’s petroleum regulators (the National Directorate of Petroleum Revenues, Timor Sea Designated Authority (TSDA until 2008) and National Petroleum Authority (after 2008)) did not effectively check and audit the companies’ tax returns. We expect that the companies, having gotten away with dubious cost recovery claims, continued to take more questionable deductions every year. The total loss to Timor-Leste could be more than a billion dollars.

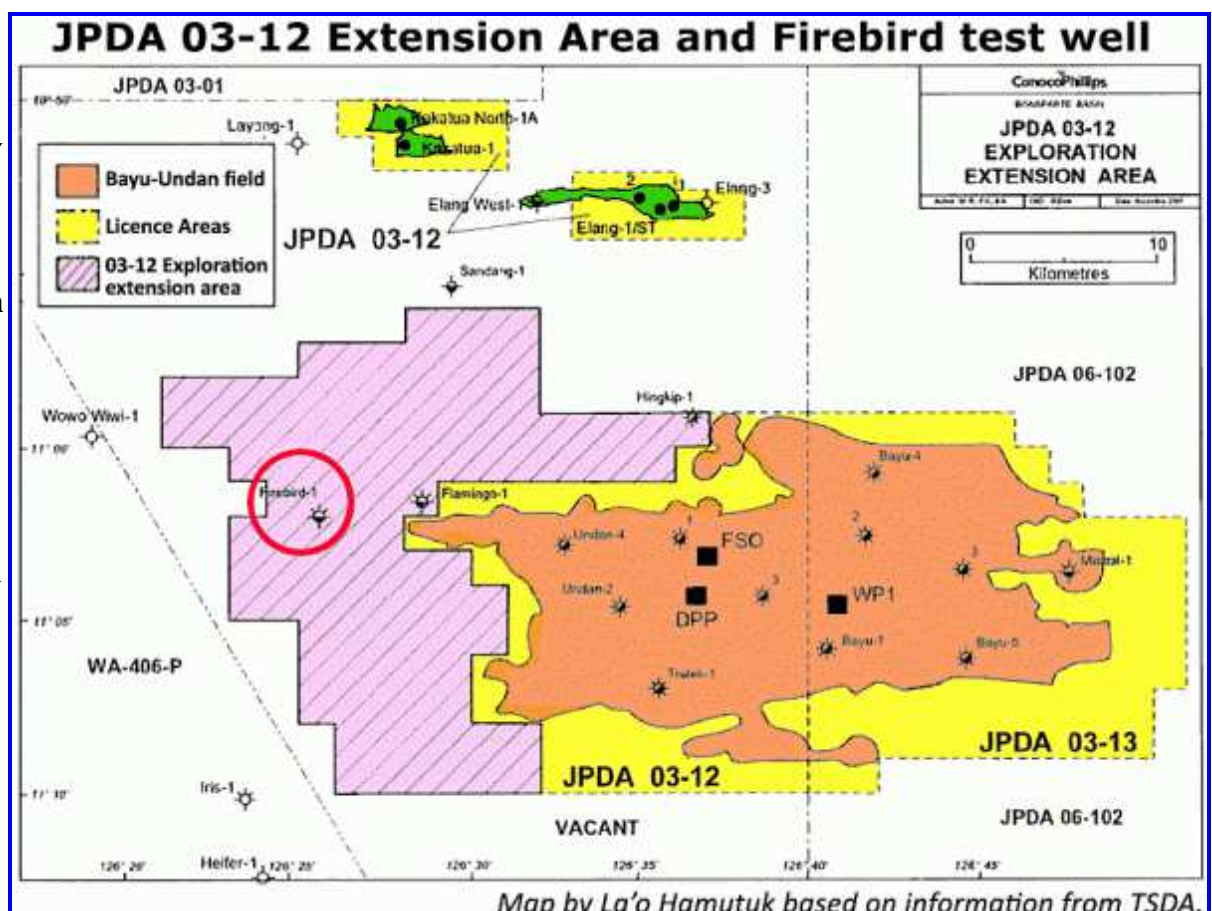
In late 2010, the NDPR has begun reviewing company tax returns from the last several years, finding many irregularities, and the ANP also began to look more closely. They had to battle with the companies and the Australian Tax Office to obtain relevant information. This web page discusses a few of ways the companies cheated.

ConocoPhillips, Inpex, Santos: Pay \$32.4 million for illegitimate cost recovery deduction.

In November 2010, after several months of investigation, Timor-Leste sent a \$32.4 million bill to ConocoPhillips (USA) and its joint venture (JV) partners Santos (Australia) and Inpex (Japan) for a cost the companies wrongly recovered from the Bayu-Undan project in 2005.

The illegitimate cost was for an exploratory well named Firebird (red circle on map at right) which was drilled in 2005 and came up dry. Firebird (sometimes called Phoenix) has a long history.

The first exploratory well ever drilled in the Joint Petroleum



Development Area was Flamingo-1 (to the right of Firebird) in 1971. Flamingo missed the Bayu-Undan field and didn't find anything significant. In 2003 ConocoPhillips reassessed the data, concluding that there could be a commercially valuable natural gas field nearby, deeper under the seabed than the Bayu-Undan field. They asked the TSDA for permission to drill one more well to confirm their guess that Firebird could have as much as 1.4 trillion cubic feet of gas, about $\frac{1}{4}$ the size of Bayu-Undan.

Under [Production Sharing Contract JPDA 03-12 \(May 2003 amendment\)](#) signed between the JV and the TSDA in 2003, the companies are required to give back parts of the contract area that they are no longer interested in exploring, and the area under contract gradually shrinks. The pink hatched area on the map was scheduled to be relinquished in 2004, but the companies asked the TSDA for time to drill Firebird. The TSDA granted the extension in February 2004, but told the companies not to charge Firebird costs against Bayu-Undan revenues. The JV would only be able to recover these exploration costs if and when Firebird became a commercial project.

The drilling rig Ocean Bounty drilled 3,675 meters deep at Firebird at the end of 2005 but found only small amounts of gas, not commercially viable, and the well was plugged and abandoned. Contrary to their agreement with TSDA, the JV charged the \$32 million cost of the well against Bayu-Undan revenues, reducing their tax payment by \$9.7 million, even though the TSDA protested. The companies gave up on this area and relinquished it soon thereafter.

In 2010 Timor-Leste began to enforce its petroleum tax laws more effectively, and reopened this issue. On 24 November 2010 Timor-Leste ordered ConocoPhillips, Inpex and Santos to deposit a total \$32.4 million into the Petroleum Fund before 7 December. This includes \$9.7 in the back taxes, as well as a 100% penalty for gross negligence and 1% per month interest and penalties for late payment.

In December 2010, Inpex paid \$7.1 million, Santos paid \$5.1 million and ConocoPhillips paid \$19.5 million. The companies threatened to appeal, but we have yet to learn the final outcome.

Timor-Leste's Government has also challenged ConocoPhillips and its partners on how they financed the 2008-2010 decommissioning of Elang-Kakatua. This depleted field, also located in JPDA 03-12, produced 32 million barrels of oil from 1998 until it ceased operation in 2007. Tens of millions of dollars in back payments has already been collected, although the dispute is still in court.

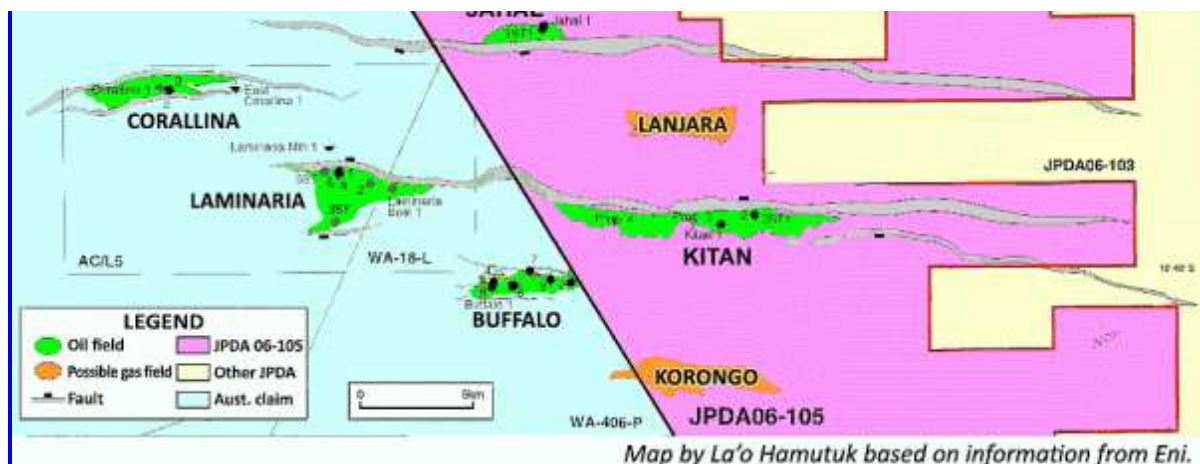
Woodside and others: Pay capital gains tax when you sell your shares in contracts.

Around the world, oil companies often buy and sell their ownership in different projects. If they make a profit – getting more for selling their shares than they spent on developing them – they are responsible to pay capital gains tax, which is 30% under the applicable law in Timor-Leste. Although several such sales have occurred in the JPDA since Timor-Leste became independent, the companies have not paid this tax. Current investigations are likely to produce payments for overdue taxes from several companies.

One example is JPDA Production Sharing Contract [06-105](#), of which



Woodside (Australia) sold its 40% share to Eni (Italy) in 2007. Although Eni paid Woodside more than \$23 million for the project, Woodside has not paid capital gains tax that it owes according to law.



The western edge of the Joint Petroleum Development Area (JPDA) has long been a promising area for oil exploration. This geological formation includes Buffalo and Laminaria-Corallina (just outside the JPDA), from which [Australia has made \\$2 billion over the past 11 years](#), and Woodside has made more.

Woodside began exploring here during the Indonesian occupation and found small oil fields with exploration wells Jahal-1 (1996) and Kuda Tasi-1 (2001). In 2003, the TSDA signed a new contract JPDA 03-01 for this area with a joint venture consisting of Woodside Petroleum (40%), Inpex (35%) and Talisman Resources (25%). Later that year, the JV drilled the Kuda Tasi-2 test well and continued seismic exploration.

In 2005 Santos sold its 25% share in the joint venture to Talisman Resources (Canada). Timor-Leste is investigating this sale to see if taxes are due.

On 24 July 2006, the TSDA signed a new [Production Sharing Contract](#) for part of area 03-01, which was renamed 06-105. Woodside believed that Kuda Tasi and Jahal contain about 20 million barrels of recoverable oil, which they hoped to develop together with Laminaria, and they drilled another test well in 2006.

After that, Woodside decided that Kuda Tasi and Jahal were not commercial, and they sold their 40% interest in JPDA06-105 to Eni in September 2007, with the required approval from the TSDA. Eni paid Woodside \$13 million initially, and \$10 million more when Eni discovered the Kitan oil field less than six months later and declared it commercial.

Woodside should have paid capital gains tax on the money they earned from this sale, but they told the TSDA (which became the National Petroleum Authority (ANP) in mid-2008) that it was simply a change of name and that no tax was due. The company says that it invested A\$52 million in the project, and only received \$26 million from the sale.

In November 2011, the Ministry of Finance published [Draft Public Ruling 2011-11](#) "to address the ambit of Article 11, Annex G to the Timor Sea Treaty and address the Timor-Leste tax consequences of transactions within the ambit of the said Article 11," to provide advice about "the tax consequences attendant to the sale of property, shares and or comparable interest in a company with a presence in the JPDA." Comments were invited, and the [final version](#), retroactive to 20 May 2002, was published on 1 February 2012. It rejects the Australian and company arguments that pre-2002 regulations excuse companies from paying Value Added, Sales, Additional Profits and Income taxes required under the laws of Timor-Leste, which usually apply a 30% tax on such transactions. This ruling took away \$600 million in dubious deductions that Woodside and Eni had claimed for the Kitan project.

Timor-Leste requested additional payments from Woodside, and in May 2012, the company paid \$24 million in overdue taxes from the sale of JPDA 06-105, as confirmed in the [2012 EITI report](#). However, the Company contested the assessment through the Ministry of Finance appeals process. When they did not get a decision, they filed a civil case in Dili District Court, which is not yet decided. In a presentation to Woodside investors on 20 Feb 2013, Woodside Chief Financial Officer Lawrie Tremain explained that Woodside paid "\$25 million ... in Timor-Leste [in 2012], relating to the sale of a Woodside subsidiary, back in 2007. The tax and penalties assessed are subject to an appeal."

The government is also looking into sales of PSC shares by other companies, and will probably be collecting additional back taxes from them.

The ANP approved the Kitan Field Development Plan in 2010 and production began in October 2011. [For information on Kitan, click here.](#)

When you pay late, pay interest.

For many years, the Bayu-Undan joint venture had been making its profit oil tax payments months late. Although the Production-Sharing Contracts require payment within 30 days, the National Petroleum Authority (ANP) and the companies failed to agree in discussions from 2008 through 2010. Finally, in mid-2011 the Joint Venture partners agreed on the payment methodology, and on their obligation to pay interest when payments are late. Since profit oil payments are around \$150 million every month, 3% annual interest amounts to nearly \$100,000 per week. As part of the agreement, the Joint Venture paid the ANP \$4.6 million in back interest in December 2011 and January 2012, of which \$4.3 million went to Timor-Leste. [La'o Hamutuk has requested more information](#), but the ANP did not respond.

If you sell a product, pay for it.

In early 2010, the [Bayu-Undan LNG plant in Darwin began to sell helium](#) to the BOC subsidiary of the Linde Group, which built a [\\$50 million helium factory](#) adjacent to the LNG plant to purify and sell the valuable natural gas byproduct. [BOC](#) and Australian Resources Minister [Martin Ferguson celebrated the opening](#) of the \$50 million plant, the first in the southern hemisphere, provides for all of Australia's helium needs.

Although the helium comes from the Bayu-Undan gas field ConocoPhillips has refused to pay Timor-Leste it's 90% share of the value of that resource. According to ANP's [2009 Annual Report](#), "ANP and ConocoPhillips have been discussing the issue of Helium sales since 2008. In 2009, both parties had resumed their discussions and they continue to believe, in good faith, that only negotiation would find a solution. This year, ANP is engaging a third party to assist and review the matter. ANP believes that the issue of helium needs to be resolved for the best outcome for both parties." The ANP's 2010 annual and 2012 quarterly reports do not mention the helium issue.

To our knowledge, the issue had not been resolved by mid-2012.

Keeping the companies honest

In December 2010, the National Directorate of Petroleum Revenues in Timor-Leste's Ministry of Finance began to audit the tax returns from Bayu-Undan for 2005 through 2009, the first time Timor-Leste has audited petroleum tax returns. Although the statute of limitations prevents looking further back than five years ago, Timor-Leste can examine years before 2005 if fraud is discovered.

For the last four years, the TSDA and ANP have used Ernst and Young as an “independent” auditor of PSC reports, but the auditor has not questioned a single item on the oil companies’ documents. Since the auditor is paid by these companies, this is not surprising, but it does embolden the companies to make more questionable claims. Timor-Leste should be using a truly independent auditor who will identify and assess payment for past irregularities, leveling the playing field somewhat.

Until recently, the oil companies insisted on keeping their files in Australia, and Australian laws about confidentiality of tax records made it impossible for Timor-Leste regulators to obtain documents from there. However, since July 2010, the companies are required to keep copies of all their books and records related to JPDA oil projects in Timor-Leste, and to make them available as requested by Timor-Leste officials. This will enable much more effective regulation, auditing and tax collection. In 2010, about fifteen times as many audits were conducted as had been in 2008 or 2009.

In May 2011, a [Government issued a press release](#) said that the National Directorate of Petroleum Revenue collected \$79 million in “audit payments” (in addition to \$361 million in revenues) during the first quarter of 2011, but without details.

According to the Ministry of Finance's [April 2012 Handover Report](#), “The National Directorate of Petroleum Revenue (NDPR) has strengthened the enforcement of the taxation laws governing the oil and gas sector. A dedicated tax audit team was inaugurated in March 2011. Enforcement activities over the last two years have generated approximately \$207 million of additional revenue. Twenty-eight substantial tax audits relating to capital gains, decommissioning provision, and head office expenses were concluded in 2011. Additional revenue associated with tax audits in 2011 increased by over \$130 million over the 2010 tax period.”

See [below](#) for further collections in 2012 and 2013.

Closing legal loopholes

In 2010-2011, the NDPR issued three public rulings and revised the petroleum tax forms and instructions to clear up ambiguities and close loopholes. In its [2011-2030 Strategic Plan](#), the Ministry of Finance will make significant efforts to further strengthen its expertise and personnel to collect petroleum taxes more effectively.

In 2012, the NPDR will audit the Bayu-Undan gas pipeline project. A [request for bids to conduct the audit was issued in February](#) and reissued in [March](#) 2012, and a \$720,000 [contract was awarded](#) to the UK consulting firm [Bayphase Limited](#) in May.

The [NDPR also sought technical support in conducting tax audits](#) and in [revising the petroleum tax regulations](#). For the latter, the New York firm [Opus & Best Law Services](#) was [awarded](#) a \$2.4 million contract in May. [Proposed new tax regulations were circulated for comment](#) in early June and the [final version was enacted](#) on 26 June 2012, retroactive to tax year 2011. According to Bobby Boye, the lead advisor (and contractor) on this project, it is one of the most comprehensive and detailed oil and gas tax regulations in Asia, it closes several loopholes and will save Timor-Leste millions of dollars during the Kitan project alone.

In June 2014, the [FBI arrested Bobby Boye](#), who had advised the Ministry of Finance on these issues. According to the [charges](#), Opus & Best does not exist.

On 21 February 2013, the NPDR circulated draft implementing regulations for the ten-year-old [Taxation of Bayu-Undan Contractors Act \(TBUCA\)](#), whose enforcement without regulations had led to disputes.

The Ministry invited public comments on the 59-page [draft regulations](#) by 20 March 2013.

Balances of power

The companies have far more resources, money and experience than the regulators. Here are a few numbers from 2011:

Company or Agency	Year founded	Number of employees	Produces in how many countries	Oil & gas production Million barrels / day	Net proved reserves Million barrel equiv.	Annual expenditures US \$million
Eni (Italy)	1926	79,000 10,400 in E&P	41	1.58	7,090	\$91,000 (operations)
ConocoPhillips (USA)	1917	29,800	35	4.52	8,387	\$232,000 (total) \$41,200 (E&P)
Woodside (Australia)	1954	3,800	7	0.19	1,292	\$2,800 (operations)
National Petroleum Authority (Timor-Leste)	2008	70	1	0.19 (90% of Bayu-Undan & Kitan)	380 (90% of Bayu-Undan & Kitan, 50% of Sunrise)	\$6
TimorGAP national oil company (Timor-Leste)	2011	60	0	none		\$25
National Directorate of Petroleum Revenues in RDTL Ministry of Finance (estimated)	2007	50	1	none		\$10

In other words, ConocoPhillips and Eni each produced nearly ten times as much oil and gas as Bayu-Undan and Kitan. ConocoPhillips has 450 times as many staff as ANP, and spent 7,000 times as much money on operations.

Timor-Leste is improving its human capacity. It has engaged [Pierre-Richard Prosper](#), a prominent U.S. attorney with the firm of Arent Fox, to advise and represent RDTL.

Timor-Leste is the owner of the oil and gas in the ground, and it writes the contracts and the laws. For our people's sake, we are glad that they are being enforced more effectively. Although our oil and gas revenues won't last that long, we should get everything we are entitled to.

Collections and Appeals continue into 2016

In December 2012, Timor-Leste published [Extractive Industries Transparency Initiative](#) (EITI) reports for [2010](#) and [2011](#). The reports, which show annual totals for payments by oil companies to Timor-Leste, include "Penalty or

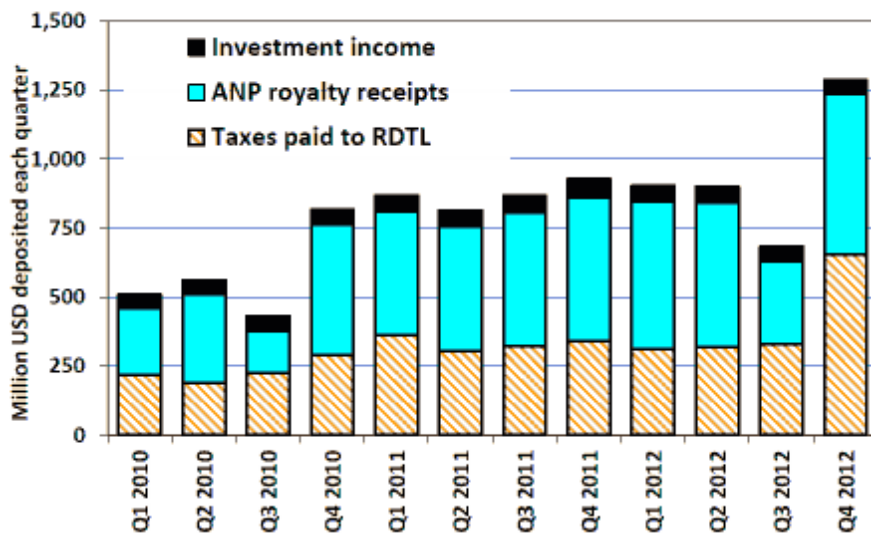
Penalties and interest paid, per EITI				
Company	Paid in 2010	2011	2012	2013
ConocoPhillips	\$12.2m	\$25.7m	~\$189m	~\$10m
Santos	\$3.8m	\$13.7m	?	?

interest on late payment of the State's share of Royalties and Profits on oil/gas." The Government and Companies originally reported different figures, but the EITI reconciliation process, which resolves contradictory reporting by company and Government, agreed on \$20.8 million in penalties/interest paid in 2010 and \$51.7m in

Inpex/Sahul	\$4.7m	\$3.3m	\$7.7m+	?
Tokyo Timor Sea	0	\$4.1m	?	?
Eni	0	\$4.9m	\$24.2m+	?
Talisman	0	0	\$0.8m+	?
Woodside	0	0	\$24.9m+	?
Total	\$20.8m	\$51.7m	\$266.1m	\$17.2m

2011, as the table at right shows (the first four companies are partners in the Bayu-Undan Joint Venture). In some cases, the companies have paid but continue to contest the assessment in court. However, the [2012 EITI report](#) includes only the total amount of back taxes received, and incomplete information for each company, although we have estimated how this is apportioned in the table at right. The [2013 EITI report](#), published in early 2016, gives only a single number for "additional taxes, which include other tax assessments and penalties" for all companies, which declined 93% since 2012.

Timor-Leste's quarterly oil and gas income



During the last quarter of 2012, Timor-Leste collected \$655 million in petroleum taxes, twice as much as was collected during other quarters (see graph at left). The extra revenue came from assessments of overdue taxes. Although the companies continue to appeal the Government's assessments, they paid to avoid further increases in penalties and interest, and hope to get their money back if they win appeals to court or arbitration.

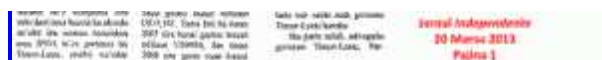
The Ministry of Finance's 2012 Annual Report states that the

Petroleum Revenue Division collected \$1.613 billion in petroleum taxes during 2012, of which 26% was from "audit-related activities," with several audits, assessments and appeals still in process.

On 19 February 2013, ConocoPhillips told U.S. government stock exchange regulators: "ConocoPhillips served a Notice of Arbitration on the Timor-Leste Minister of Finance in October 2012 for outstanding disputes related to a series of tax assessments. Between 2010 and 2012, ConocoPhillips has paid, under protest, tax assessments totaling approximately \$227 million, which are primarily recorded in the "Investments and long-term receivables" line on our December 31, 2012, consolidated balance sheet. The arbitration will be conducted in Singapore under the United Nations Commission on International Trade Laws (UNCITRAL) arbitration rules, pursuant to the terms of the Tax Stability Agreement with the Timor-Leste Government. The arbitration process is currently underway. Future impacts on our business are not known at this time."

Dili District Court heard arguments between the Government and ConocoPhillips and Tokyo Timor Sea on 18 and 19 March 2013. Timor-Leste's Ministry of Finance ordered ConocoPhillips to provide documentation for "cost recovery" deductions taken against Bayu-Undan operation since 2009, and has assessed a penalty of \$5





million for what it claims are invalid deductions, according to a Government [press release](#). ConocoPhillips appealed the assessment to court. Although the judges said they would announce their findings on 6 May, they have not yet been issued. As the [Government explained](#), they will try to reach a settlement with the companies before then. Many other cases remain at various stages of appeal.

The Australian Parliament is conducting an [inquiry](#) on Australia's relationship with Timor-Leste. In its [12 April 2013 submission, ConocoPhillips](#) complained about their tax assessments: "ConocoPhillips and the other Bayu-Undan joint venture partners have recently received multiple tax assessments that breach the fiscal framework committed to by Timor-Leste. In addition, two of the assessments impose a double taxation cost on the Joint Venture that directly impacts the relationship between Timor-Leste and Australia and impinges upon Australia's sovereignty. They also represent a change in the interpretation and application of Timor-Leste tax laws. Additionally, the TLRS has imposed penalties on all assessments that greatly exceed the underlying amounts of tax in a manner that we see as inconsistent with Timor Leste tax laws. Repeated attempts over several years to resolve these matters through direct negotiation with the Timor-Leste government have been unsuccessful and, consequently, the Joint venture partners are now seeking recourse both in the Timor-Leste District Court and through international arbitration, pursuant to the tax stability guarantees provided by Timor-Leste. In sum, these tax assessments have resulted in an unfortunate erosion of the confidence and trust necessary for investment in any nation, especially one that is still early in its development."

ConocoPhillips' lament echoes recent articles in the business and petroleum industry media claiming that investors are losing confidence in Timor-Leste because it is actively pursuing back taxes, maritime boundaries and an onshore LNG plant for Greater Sunrise. Some of them are available on our [maritime boundaries web page](#).

On 23 August 2013, [Timor-Leste declared](#) that its tax auditing policy was consistent with that of other countries, including Australia. ConocoPhillips has appealed the findings to arbitration in Singapore, and [Timor-Leste responded](#) to their case on 25 October 2013. The Singapore panel held hearings in June 2014 with testimony from Alfredo Pires, Mari Alkatiri and many others.

On 1 April 2014, the [Sydney Morning Herald cited Timor-Leste's lawyers](#) as saying that a January 2014 letter from Australia to Timor-Leste supporting ConocoPhillips in the Bayu-Undan tax case linked it to [Timor-Leste's request for arbitration to invalidate the CMATS revenue-sharing treaty](#), inadvertently strengthening Dili's position.

It could take years for the Singapore arbitrators to decide, although a few [cases were decided in Dili District court](#) in the companies' favor. In February 2015, Timor-Leste quietly refunded \$25 million to ConocoPhillips by deducting it from their monthly petroleum tax bill.

In May 2015, [ConocoPhillips reiterated its quarterly comments](#) to stock regulators: "ConocoPhillips served a Notice of Arbitration on the Timor-Leste Minister of Finance in October 2012 for outstanding disputes related to a series of tax assessments. As of March 31, 2015, ConocoPhillips has paid, under protest, tax assessments totaling approximately \$237 million, which are primarily recorded in the 'Investments and long-term receivables' line on our consolidated balance sheet. The arbitration hearing was conducted in Singapore in June 2014 under the United Nations Commission on International Trade Laws (UNCITRAL) arbitration rules, pursuant to the terms of the Tax Stability Agreement with the Timor-Leste government. Post-hearing briefs from both parties were filed in August 2014. We are now awaiting the Tribunal's decision. Future impacts on our business are not known at this time." This paragraph was repeated in their Third Quarter filing in November 2015.

The Singapore arbitration process proceeded very slowly, without revealing much information to the public. Negotiations also proceeded, and on 17 February 2016 [Timor-Leste and ConocoPhillips jointly announced the settlement of "several significant tax disputes"](#) regarding Bayu-Undan decommissioning, Phoenix/Firebird and the Capacity Reserve Charge. They could not agree about the pipeline withholding tax, and that issue is still before the arbitration tribunal. The terms of the settlement were not disclosed, nor was information about participation by other oil companies. The settlement was reported by [The Australian](#) and other Australian and oil industry media, but the articles contained no more information than the announcement.

During the first quarter of 2016, ConocoPhillips worldwide posted a net loss of \$1.5 billion, largely because revenues declined to \$5.1 billion (they had been \$7.7 billion in the first quarter of the previous year). On 3 May, the company's [quarterly filing with U.S. stock exchange regulators](#) noted the resolution of the tax cases with Timor-Leste: "In January 2016, we settled three of the four Timor-Leste tax disputes. In March 2016, we received a decision from the arbitration tribunal on the fourth Timor-Leste tax dispute item."

Under the settlement, Timor-Leste is refunding over-collected taxes to ConocoPhillips by deducting them from the company's monthly payments of Royalties (FTP) and Profit Oil taxes to Timor-Leste, which are paid through the National Petroleum and Minerals Authority (ANPM). Although the settlement and repayments are not transparent, La'o Hamutuk has heard that the total amount to be returned to ConocoPhillips is about \$150 million. In addition to the \$25 million returned in 2015, we calculate that \$13.8 million was deducted in February 2016 and \$14.3 million in March. Profit oil taxes declined after that, resulting in lower taxes which can only cover smaller deductions: \$5.6 million was deducted in April and at least \$4.2 million in May. Repayments will likely continue into 2017 or later.

Bobby Boye arrested, pleads guilty, gets six year sentence (click [here](#) for details; also in [Tetum](#))

On 19 June 2014, U.S. federal [agents arrested Bobby Boye](#), on charges of defrauding Timor-Leste of more than \$3.5 million dollars. According to the FBI, Boye "allegedly deceived [Timor-Leste] representatives into awarding the lucrative contract to Opus & Best Services LLC, a sham New York law and accounting firm that, unbeknownst to [Timor-Leste], was secretly controlled by Boye. ...

"Between June 2012 and December 2012, [Timor-Leste] wired more than \$3.5 million to Opus & Best's New York business checking account, which was controlled by Boye. He used the money to purchase four properties in New Jersey for more than \$1.5 million in cash, three luxury vehicles (a 2012 Bentley for \$172,000, a 2012 Range Rover for \$100,983, and a 2011 Rolls Royce for \$215,000), and two designer watches for almost \$20,000."

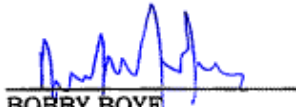


Download the 10-page [Criminal Complaint filed in court](#), or extensive [documents from the trial court](#) or the [appellate court](#). **Much more detailed and updated information is on our [web page on Bobby Boye](#).**

On 9 September 2014, [Tom Allard reported in the Sydney Morning Herald](#) that ConocoPhillips was aware of Bobby Boye's criminal record long before Timor-Leste's government learned of it. The company's interest was piqued in 2010 by the accuracy of this web page, and a little background research on Boye revealed some of his sorry history. (Although La'o Hamutuk did talk with Boye occasionally, we also receive information from many other public, official and unofficial sources.) After Boye was arrested, we heard from several other people close to Timor-Leste's petroleum tax system that they had raised concerns about Boye with various authorities, but high officials were too confident in him to pursue the information.

On 10 September, the *SMH* published [another article](#) by Allard describing Timor-Leste's allegations about Roger Maguire, an Australian advisor to the tax department in Timor-Leste's Ministry of Finance in 2010-2011. After Maguire left Timor-Leste, ConocoPhillips paid him \$120,000 to help develop the company's evidence in the tax arbitration cases. Timor-Leste's attorney Pierre Prosper says that Maguire was a "mole" for the company while he was ostensibly working for Timor-Leste.

On 28 April 2015, [Boye pled guilty](#) in U.S. District Court in New Jersey to one count of conspiracy to commit wire fraud. In July, [La'o Hamutuk wrote to the prosecutors](#), estimating the full cost of his crimes to Timor-Leste at around \$176 million. In October, Boye was sentenced to six years in prison and ordered to repay Timor-Leste at least \$3.51 million dollars. In February 2016, the U.S. Court of Appeals turned down his appeal, and he is serving his time at Fort Dix Correctional Institution.

The substance of the plea agreement is: I CONSPIRED TO DEFRAUD BY CAUSING MONEY TO BE WIRED IN ORDER TO EXECUTE THE SCHEME	
I want to plead guilty pursuant to this plea agreement.	
AGREED AND ACCEPTED:	
 BOBBY BOYE	Date: 3/19/15

**The Timor-Leste Institute for Development Monitoring and Analysis (La'o Hamutuk)
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