

# Misinformation and facts about the Greater Sunrise project

By La'ó Hamutuk, 6 March 2019

At the end of September 2018, Timor-Leste and ConocoPhillips announced that the company will sell its 30% share of participation in the Greater Sunrise Joint Venture to Timor-Leste for \$350 million. A month later, Shell agreed to sell its 26.56% share for \$300 million more. Timor-Leste is debating laws and budgets to implement these transactions.

These events have stimulated a lot of talking and writing by journalists, leaders and experts. Unfortunately, much of the commentary has included inaccurate context and factual errors. La'ó Hamutuk is publishing this list of common misunderstandings, with relevant facts, to help people understand the issues better. We hope that it will also improve the accuracy of future reporting.

A version of this article, with links, is at

<http://laohamutuk.blogspot.com/2019/01/misinformation-and-facts-about-greater.html>, with Tetum at <https://laohamutuk.blogspot.com/2019/02/informasaun-sala-no-faktu-sira-kona-ba.html>.

For additional, regularly updated, information about the Sunrise project and Timor-Leste's participation, see <http://www.laohamutuk.org/Oil/Sunrise/18SunriseBuyout.htm>.

Misunderstanding	Actual reality
Timor-Leste is buying shares (or stock / ações / asaun) in ConocoPhillips and Shell.	The companies agreed to sell their ownership of parts of the Sunrise Joint Venture to Timor-Leste. This kind of deal is common in the petroleum industry. However, part of a joint venture is not the same as shares of a company's stock, which can easily be resold and don't involve additional obligations. Participants in a joint venture such as this commit to invest billions of dollars more and are responsible for managing the project. Changes in ownership must be approved by other participants.  The world contains many prospective petroleum projects which are likely to be more profitable than Greater Sunrise, and experienced, legitimate companies may choose to invest elsewhere unless special incentives are offered to buy into the Sunrise project.
The deals show that the companies trust Timor-Leste's capability to carry out the Sunrise project.	Shell and ConocoPhillips will no longer be involved in Sunrise. They are happy to receive Timor-Leste's money in return for pulling out of a project that will not be developed in ways they believe are the most profitable.
A pipeline from Sunrise to Beaçu is not technically feasible.	Although this may have been true 15 years ago, today everyone agrees that it is possible to run an undersea gas pipeline across the deep, steep Timor Trench between Sunrise and Beaçu.  However, it is likely to be more expensive and riskier than other development models.
There is no need to analyze or compare alternative development options for Sunrise.	La'ó Hamutuk believes that Sunrise development should maximize the benefits for Timor-Leste's people, while minimizing costs and risks, and all possible options should be compared by independent experts, leading to a decision based solely on economics, not politics or ideology. Proponents of the pipeline to Beaçu have not released (or not done) recent comparisons of it with other options, such as a pipeline to the existing Darwin LNG plant or floating LNG.

Timor-Leste's investment in this project will be \$650 million.	Participants in a joint venture are responsible to pay their portion of the capital and operating costs of the project, in return for receiving part of the profits. In addition to the \$650 million to buy 56.56% participation, Timor-Leste will have to invest more than \$10 billion to enable Sunrise oil and gas production.
Changes to legislation are required for these deals to move ahead.	The Sunrise buy-in could proceed under existing law, without amending Petroleum Activities Law 13/2005.
The President vetoed participation in the Sunrise project.	The President did not veto participation in the joint venture, as this was not in legislation presented to him. He vetoed the law to amend Petroleum Activities Law 13/2005, which would have allowed the Petroleum Fund to be directly invested in TimorGAP, which contradicts Petroleum Fund Law 9/2005 (as amended in 2011). However, Parliament overrode the veto, the President promulgated it as Law 1/2019, and it is currently being challenged in court.  No legislation to finance the billions in additional investment that the Sunrise project will require has been proposed.
The Petroleum Activities Law needs revision to allow Timor-Leste to own more than 20% of a petroleum project.	TimorGAP already owns 50% of two onshore Production-Sharing Contracts (PSCs), 100% of offshore PSC S0-15-01, and 24% of PSC JPDA 11-106. Existing law does not prevent Timor-Leste from owning 30% or more of Sunrise, as the 20% limit does not apply to purchased participation.
It requires two-thirds (43 Members) or a majority (33 Members) of Parliament to override a Presidential veto.	This is subject to debate; the Constitution is ambiguous. Major issues, including the State Budget, require 2/3 of those present, while others require an absolute majority of Parliament.  On 10 January, 41 Members of Parliament voted to override the President's veto of the amendment to the Petroleum Activities Law (only one voted against, as Fretilin walked out). Although the President subsequently promulgated the law, 23 Members of Parliament have challenged its constitutionality and legality in the Court of Appeals.
The purchase agreements are too complicated to be evaluated by the Audit Chamber of the Appeals Court ( <i>Camara da Contas</i> ).	The proposed legislation removes all petroleum-related contracts and other related legal documents from prior review by the Audit Chamber, forever. It is not limited to purchase agreements, or to Sunrise, and could also apply to financing agreements for any petroleum-related project.  In December, Special Representative Xanana Gusmão told the GMN-TV audience that the purchase agreements are too complicated for the Audit Chamber to understand, and that Timor-Leste should trust the undisclosed "Due Diligence" reports by PriceWaterhouseCoopers (PWC). La'o Hamutuk believes that the agreements' cost and complexity is exactly why transparency, checks and balances, and prior independent review are essential.

<p>The purchase agreements and “Due Diligence” reports are public documents.</p>	<p>Although the Special Representative emphatically announced at Dili Convention Center (on national television) that these documents are public, they have not been made available, although La’o Hamutuk has asked TimorGAP and the Maritime Boundaries Office for them.</p>
<p>The current Petroleum Fund Law permits part of the Fund to be invested in Sunrise.</p>	<p>Article 15.1 of Petroleum Fund Law 9/2005 as amended in 2011 specifies that all of the Fund’s investments must be outside Timor-Leste. Other clauses in Article 15 say that up to 5% of the investments can be ‘non-traditional’ (i.e. other than bonds and stocks), and that no more than 3% can be in any one company. Although the amendment to the Petroleum Activities Law might allow the Fund to be invested in TimorGAP, it does not revise the Petroleum Fund Law.</p> <p>Another way to pay for Sunrise would be through the State Budget, nearly 90% of which comes from the Petroleum Fund. The 2019 budget originally passed by Parliament included \$650 million for ConocoPhillips and Shell. However, after the President vetoed it, Parliament removed the allocation. A budget appropriation would be a transparent, democratic and unambiguously legal way for the Petroleum Fund to pay for part of the Sunrise Project without damaging the security and accountability of the Petroleum Fund, and without creating confusion between spending and investment.</p>
<p>Timor-Leste will have to pay fines to the companies if payments are not made by the end of March 2019.</p>	<p>The agreement with ConocoPhillips says that if \$350 million is not paid by the end of March, Timor-Leste will have to pay interest (not a fine) on the unpaid balance, at a 5% annual rate. Between November 2018 and January 2019, Timor-Leste earned a 9.3% annualized return from investing the Petroleum Fund, so Timor-Leste could benefit financially by paying later and keeping the money in the Fund longer. We do not know if there is an absolute deadline for making the payment.</p> <p>The payment to Shell is not due until March 2020.</p>
<p>Money invested by companies and Timor-Leste in the Sunrise project will be repaid, with 127% more added, just as was done for the companies who invested in Bayu-Undan. (In other words, a \$100 investment will be repaid with \$227.)</p>	<p>This is partly true. However, Bayu-Undan’s tax regime was designed to favor the companies’ interests over those of governments, and Sunrise doesn’t have to use the same system. Even if Sunrise uses these earlier rules, this would apply only to the investment at the field (upstream), but not to the purchase of participation, or to the pipeline and LNG plant.</p> <p>As gas is sold, some of the proceeds will be used to repay investors, and Timor-Leste will get 56.56% of this. These repayments will reduce the taxes that TL receives from Sunrise oil and gas production, so larger capital costs may not benefit the State.</p>
<p>Timor-Leste has received more than \$5 billion because it diversified Petroleum Fund investments into the stock market starting in 2012.</p>	<p>Between the start of 2013 and the end of 2018, the Petroleum Fund earned \$1.95 billion in interest and dividends, which would have been received even if all the investments had remained in bonds. Its stock investments grew in value by \$1.97 billion during that period, during which global stock prices did very well.</p> <p>During the same period, the Fund received \$6.93 billion from oil and gas and lost \$0.64 billion due to changes in currency exchange rates.</p>

<p>The Sunrise project will succeed because Timor-Leste's leaders are determined to make it work.</p>	<p>Even if Timor-Leste obtains low-cost, low-risk financing, and the design, construction and management of the Greater Sunrise project are done perfectly, some factors are not within Timor-Leste's control. Sunrise will be producing LNG for a quarter of a century, and the price of natural gas could drop drastically as non-conventional sources (i.e. fracking) continue to grow, or as renewable energy replaces fossil fuels. The consequences of climate change could cause nations to tax (or even outlaw) burning oil and gas, undercutting the economics of Sunrise. None of this is certain, but it is a serious risk.</p>
<p>If the project is approved expeditiously, Greater Sunrise will provide enough revenue to Timor-Leste in time to prevent the Petroleum Fund from being drawn down to zero in about ten years.</p>	<p>La'o Hamutuk estimates that Timor-Leste's Petroleum Fund could be empty by 2027 even if the State does not spend or invest in the Sunrise project. If the Fund is invested (directly or through the State Budget) in Sunrise and Tasi Mane, it could be empty several years sooner.</p> <p>If everything goes as planned, proponents of the Sunrise project expect production to start toward the end of 2026. However, the experience of Bayu-Undan and other projects is that significant revenue does not come in until about two years after production begins, because production ramps up slowly and capital investors must be repaid first. Even if Sunrise goes perfectly, Timor-Leste will probably face several years of austerity – not having enough money to pay for basic services – unless the economy is rapidly diversified into non-oil sectors.</p>
<p>If Greater Sunrise does not produce the expected revenue and profit, project financiers (especially China) could impose severe sanctions on Timor-Leste.</p>	<p>This is worrisome, but might be correct. Having loan agreements reviewed by the Audit Chamber will reduce or avoid this danger.</p> <p>In some countries, including Sri Lanka, Myanmar and Angola, loan agreements have forced gas and oil producers to sell to the lender at below-market prices, or have allowed foreign lenders to take ownership of key infrastructure. However, if the project is profitable, there is no need to sign financing agreements which impose harsh conditions on Timor-Leste – and, if it is not, it shouldn't be done in the first place.</p>
<p>All the proposed components of the Tasi Mane Project are necessary to bring the Sunrise pipeline to Timor-Leste.</p>	<p>The Greater Sunrise pipeline and LNG project require the infrastructure at the offshore Sunrise field, the undersea gas pipeline, and the LNG plant and tanker jetty at Beaçu. It does not need the South Coast highway, Betano refinery or the Suai Supply Base. Cancelling other project components would not create any new technical or economic obstacles to Beaçu LNG. Each component of the Tasi Mane Project should be decided separately, with its own independent, objective, cost/benefit/risk analysis.</p>