



La'o Hamutuk second submission

to the Ministry of Agriculture and Fisheries and “Seeds of Life” program regarding Timor-Leste Draft National Seed Policy¹

6 March 2013

Introduction

La'o Hamutuk would like to thank Timor-Leste's Ministry of Agriculture and Fisheries (MAF) and Seeds of Life (SoL) for giving us the opportunity to participate as an observer in the meetings of the national seed policy working group and to share our view on Timor-Leste Draft Seed Policy. This effort of openness and collaboration differs from the previous lack of transparency surrounding the elaboration of the draft Seed Law, which La'o Hamutuk has tried to obtain for several years in vain.

However, as we mentioned in our first submission, we regret the top-down approach followed by MAF-SoL during the elaboration process of Timor-Leste Seed Policy. MAF-SoL asked an international consultant to write general drafts supposed to include input from the working group members - none of them being farmers - and then to socialize the last draft during consultation workshops where the majority of the participants ignored and/or misunderstood the content of the policy. The starting point of the elaboration of Timor-Leste Seed Policy should have been a comprehensive field research on current farmers' seed systems and traditions, as well as a broad real consultation with farmers and the public.

As many of our concerns raised in our first submission have not been addressed in the latter draft, we would like to reiterate them in more details. We believe this draft seed policy is unbalanced, putting an over-emphasis on the formal seed sector at the expense of the informal, traditional one; on modern or new varieties issued from research at the expense of the local, existing ones; and on seed trade at the expense of food sovereignty. We hope our suggestions will help develop alternatives to improve this draft in a sense of a better respect of the principles of economic, social and cultural rights, as well as biodiversity preservation.

I. General suggestions

- Clarify the terminology and use the appropriate terms

To begin with, it is fundamental to clarify the terminology employed, for example by creating a lexicon. The document distributed during the workshops could be a starting-point. Among the terms to define we can list (list non exhaustive): farmer, CSPG, government (which level), informal/formal seed system, private sector, seed security/sovereignty, seed bank, registration, sui-generis system, etc.

The wordings used should be more neutral, more adapted to reality. For example, the supply of “high quality seeds” is not *vital* for the seed security and food security, as many other important factors are involved.

¹ This submission is in response to the “second draft” circulated in late 2012.

It is also crucial to use more accurate and specific terms, avoiding words which open the door to diverse legal interpretations of the policy like: including, such as, etc.

➤ Adopt a broader approach of what seeds and seeds systems are

This policy should adopt a holistic approach of the seed system, encompassing all its socio-economic and cultural implications. Unfortunately, this draft seed policy put stress on the ends, i.e. the ultimate goal to produce seeds, without considering the processes, the traditional system supporting this activity. In the draft, seeds are described as a technological component of the seed business, to be optimized through research and produced for a market. In Timor-Leste's context, as in other traditional societies, seeds are not a commodity produced industrially; instead, spiritual and social values are associated with seed production, exchange and planting. Seeds are related to food, culture, beliefs and local traditions. The processes and the local context are important and meaningful and must not be overlooked.

➤ Don't reduce the food security debate to seeds

Even if they are at the basis of the food cycle, seeds are just one component among numerous others involved in food production and consumption. Soil preparation and restoration, farm planning, labour supply, harvest management, diet and cultural habits, access to market and purchasing power are other important factors to consider in the food security debate. The latter should not be reduced to the seeds, at the risk of exaggerating our expectations from the seeds characteristics and getting lost in endless research, overlooking simple and cheap alternatives.

➤ Don't give the formal seed sector more importance than the informal one

As it is reminded in the introduction "more than 80% of the seeds used by farmers come from the informal seed systems which consist of farmers producing, saving, exchanging and selling their farm-saved seeds within and outside their community." Timor-Leste Seed Policy must not be biased towards the needs of the formal sector producing the remaining 20% of the seeds used by farmers. As the main component of the national seed system, feeding people and contributing their socio-economic and cultural life, the informal seed sector should be strengthened. It is not enough to only allow the informal sector to keep on existing besides the formal one.

Even if the draft Seed Policy mentions that "the informal and formal seed sectors are seen as complementary, not competing, components of the national seed system", in reality the actors in the formal seed sector are much more powerful than the subsistence farmers using seeds from the informal seed system. Timorese traditional seeds and agriculture systems are not driven by profit making and do not aim at the production of standardized seeds that fit the global market's requirements. The process of seeds selection, production, use, storage, multiplication, exchange, is part of Timor-Leste's traditional social system. It creates and strengthens social relations, and responds to local needs. Timor-Leste Seed Policy must respect and facilitate the continuation of Timorese farmers' way of life, culture, tradition, beliefs.

➤ Give priority to existing seeds and plants biodiversity instead of focusing on research and on the introduction or adaptation of modern, improved varieties

Timor-Leste should take advantage from the existing knowledge and capitalization of experiences to make the best choices in terms of policy. Local seeds, wild varieties, traditional varieties that are considered inferior to the modern, improved ones, are actually fundamental for food and for biodiversity. As a FAO Report points out², one of the most important reason for the loss of seeds, and thereby the loss of genetic diversity, is the replacement of genetically diverse farmers'

² FAO "The Second Report on the State of the World's Plant Genetic Resources for Food and Agriculture", 2010, available at <http://www.fao.org/docrep/013/i1500e/i1500e.pdf>

varieties (traditional varieties) with modern varieties (improved varieties), products of formal plant breeding systems.

Timor-Leste Seed Policy should not promote standardization and homogeneity, and instead must recognize that if uniform crops are suitable for mechanized, industrial agriculture and respond to quality-standardized global market needs, they contribute to biodiversity erosion.

➤ Define what good/high quality seeds are

"Good quality" or "high quality" seeds are not only the "high yielding varieties". This policy puts stress on the importance of the availability of "high quality seeds" whereas this term is not defined. As the main argument of seed companies is to sell seeds which are allegedly "improved", or of a superior quality, in opposition to traditional local seeds, it is fundamental to define this term. Considering the fact that this policy must give priority to Timor-Leste farmers, "quality" should be defined in accordance with their preferences. For Timorese farmers, different factors give value to the seed: the ability to store it, the ability to cultivate it without using chemical inputs or large amounts of water, the ability to be grown as an intercrop, the availability of the seed in the traditional seed system (farmer-to-farmer exchange and sale), the taste and nutritive quality of the crop, etc. Farmer-developed varieties must not be considered as poor quality varieties for the only reason that they are not homogeneous, stable, or standardized. This diversity and variability is natural and contribute to biodiversity.

➤ Recognize farmers' rights and communities' rights over their biological resources

Timor-Leste's Seed Policy must above all recognize and promote farmers' rights. The concept of seed sovereignty used in the draft (and more broadly of food sovereignty) must be clearly defined. Hasatil and La'o Hamutuk don't talk about "national" seed sovereignty but specifically about **farmers'** right to sovereignty over food, including seeds. According to the concept of food sovereignty, empowered farmers define their own agricultural and food policies, which are ecologically, socially, economically and culturally appropriate to their unique circumstances. This concept also includes the right to food and the right to produce food respecting agroecology principles, i.e. respect of environmental cycles, sustainable use of natural resources, etc. Contrary to a widespread idea, sustainable agriculture is not less productive than industrial agriculture. The international community even came to the conclusion that the future of agriculture is in small scale farming respecting ecosystems, able to produce as much as the intensive industrial agricultural development model³.

Following the food sovereignty concept, farmers are not transformed into consumers depending on industrial inputs or on the food industry, neither into suppliers of the global market. Thus, any policy leading to farmers' dependency on the commercial seed market or on the needs of the global market is considered as a regressive one from a human rights perspective.

Timorese farmers account for the poorest of Timor-Leste's population. Their vulnerability to external shocks and inability to compete with actors on the international market must be recognized and instruments of protection must be created. The State should play a role of regulator, controlling prices to ensure farmers' access to basic needs. As market principles are totally different from human rights principles, Timor-Leste should not blindly adopt neoliberalism dogma as the basis of its development. Instead, we should explore means to maintain our tradition of solidarity, still strong in the country.

In addition to the reference to the Convention on Biological Diversity, the International Covenant on Economic, Social and Cultural Rights should be also cited, as this Seed Policy is directly linked to

³ International Assessment of Agricultural Knowledge, Science and Technology for Development, Agriculture at a crossroads, available at: [http://www.agassessment.org/reports/IAASTD/EN/Agriculture%20at%20a%20Crossroads_Global%20Report%20\(English\).pdf](http://www.agassessment.org/reports/IAASTD/EN/Agriculture%20at%20a%20Crossroads_Global%20Report%20(English).pdf)

the right to food, the right to live as a farmer, and the right to maintain cultural practices and traditional knowledge.

➤ Promote the sharing instead of the privatization of the commons

Timor-Leste Seed Policy must favor an approach which gives priority to sharing biological resources and knowledge between people instead of appropriation of knowledge via intellectual property rights (IPR), which don't respond to socio-economic concerns like food sovereignty. Seeds and planting materials are the basis of food security and should not be managed through monopoly systems. More specifically, this policy should reject any attempt to establish a monopoly on life and nature (living organisms, biological processes) through IPR, and explore real alternatives, as the western concept of property is not suitable to Timor-Leste's context. Farmers in Timor-Leste are not familiar with the concept of ownership on plant varieties. What they own is the crop they raise on their land and not the variety. These varieties are left in the public domain for free use by other farmers. In addition, ownership conflicts may arise when farmers from different regions cultivating the same variety make simultaneous claims for their right over that variety.

➤ Establish a clear Genetically Modified Organism (GMO) ban and promote a GMO-free Timor-Leste

Although the draft seed policy recognizes the dangers of the GMO, it does not offer a strong protection against them. Considering the available evidence of health and environmental risks posed by the GMOs, the high cost and technology required for GMOs research, and the rich biodiversity still to be discovered in the country, Timor-Leste should adopt a firm position against the GMOs.

➤ Respond to current needs

The main objective of this Seed Policy must be to improve Timorese people's living conditions, not to respond to the global market needs. The mention of the "export seed market", in a context of a supposed food and seeds shortage, seems premature and irrelevant. For a measure or policy to be successful, timing is a factor as important as content. This seed policy must reflect Timor-Leste's current situation and respond to real needs, and make clear that Timor-Leste's domestic seed sector "competitiveness in the international market" is not a priority.

➤ Consider the whole seed sector

This seed policy is focused on seeds produced for food and agriculture, but in coherence with the broad definition adopted for seeds, this Seed Policy should respond to the needs of the whole seed sector, including horticulture and forestry. Otherwise, the current definition - "Seeds are defined in the broadest sense and include sexually propagated seeds and other planting materials, including cuttings, tubers and other vegetative propagules or parts. The policy includes seeds of all plants used for food and agriculture, and for any commercial purpose, such as grains, legumes, oil crops, vegetables, fruits and other food crops, fodder and forage crops, plantation crops, spices, medicinal plants, flowers and ornamental plants and tree crops." - should be changed.

II. Specific article by article comments

1 Conservation and use of plant genetic resources

Add: "sustainable" use of plant genetic resources. Timor-Leste Seed Policy will preserve and promote **existing** plant genetic diversity and recognize that **farmers** have a critical role in maintaining genetic diversity in agricultural systems.

1.1 The CBD does not only recognize the sovereign rights of the States over their plant genetic resources but also the inalienable rights of local communities including farming communities over their biological resources, knowledge and technologies. Make consistent with 1.4

1.2 Add "sustainable" use of plant genetic resources.

1.2.1 Add: Access to information in the national database shall be regulated by a charter setting out the rights of the providers of the data, including farmers and local communities.

A national database is not likely to benefit to farmers. Priority should be given to local initiatives and institutions.

1.2.3 In addition to being costly and highly technological, this kind of ex situ conservation has its limitations: access for farmers is limited, the frozen seeds do not evolve, and the knowledge and culture of seed management may be lost.

Add: The national gene bank must work in close collaboration with the community seed bank by providing materials for restoration of local varieties. The national gene bank should also act as a backup for varieties.

1.2.5 Instead of giving *priority* to ex-situ storage and just *promote* or *support* in-situ conservation, the reverse should be done. Timor-Leste Seed Policy should focus on on-farm (in situ) traditional seed conservation by farmers, because it allows renewal of seed diversity.

In situ or on-farm conservation where farmers actively maintain diversity in their fields is crucial in order to continue the dynamic evolutionary process of local genetic diversity and its associated knowledge and culture. In addition, farmers maintain the control over their seeds.

1.3 The primary purpose of registration of plant varieties is not clearly mentioned. Registration must not be used as a means to establish the IPR of the breeder on the plant variety bred by him. Registration may be a means to gather information about the existing varieties (database), and avoid misappropriation by preventing others from getting intellectual property rights to the plant genetic resources. But inversely, it may facilitate biopiracy and industry intrusion, making precious information previously conserved among farmers freely available to public.

It is not clear in the draft if registration of local plant varieties is mandatory or not? But art 6.8 mentions compulsory licensing for all registered and protected varieties. As compulsory licensing revokes the exclusive right on commercial production and marketing of seed granted to the intellectual rights-holder, measures must be taken to protect farmers and communities engaged in commercial production.

1.3.2 Databases at the national or district levels are not likely to benefit to farmers. Local initiatives must be preferred.

1.4.1; 1.4.2 Add: Authorization should be asked to the local holders of the rights over the genetic resources, including farmers and communities, not to "a designated national authority".

Add: "Any access carried out without the prior informed consent of the concerned local communities shall be deemed to be invalid and shall be subject to the sanctions (confiscation of collected biological specimens and equipment, permanent ban from access to biological resources, community knowledge and technologies in the country).

Add: The violation committed shall be publicized in the national and international media and shall be reported to the secretariats of relevant international agreements and regional bodies.

1.4.6 Farmer's rights and communities' rights

Instead of mentioning the necessity to "consider" other measures necessary for the protection of Farmers' Rights, this fundamental point should be dealt with in a comprehensive and specific article.

Farmers' rights must be clearly defined and defended.

For example: *Farmers' Rights consist of the customary rights of farmers to save, use, exchange and sell farm-saved seed and propagating material, their rights to be recognized, rewarded and*

supported for their contribution to the global pool of genetic resources as well as to the development of commercial varieties of plants, and to participate in decision making on issues related to crop genetic resources⁴. Farmers' rights also refer to farmers' control over their seeds, land, knowledge and livelihoods.

Add:

- The rights of local communities, including farmers, over their biological resources, knowledge and technologies that represent the very nature of their livelihood systems and that have evolved over generations of human history, are of a collective nature and, therefore, are *a priori* rights which take precedence over rights based on private interests.
- Farmers must be protected against innocent infringement: the farmer cannot be prosecuted for infringement of rights specified in the Seed Policy if he can prove in court that he was unaware of the existence of such a right.
- If the seed supplied does not perform as has been promised by the breeder/company, the farmers shall have the right to claim compensation. The compensation should be specified and should be large enough to be a deterrent.
- Add "sow and re-sow" to the rights of the farmers to save, use, exchange...seeds.
- Regarding access to plant genetic resources, in addition to the farmers' informed consent before their varieties are used in plant breeding, a payment for the use of farmer varieties should be made. Why not creating a local gene funds to channel compensation for use of traditional plant genetic resources for food and agriculture and related traditional knowledge?
- Farmers and communities have the right to refuse consent, and the right to withdraw consent or place restrictions on the activities relating to access to plant genetic resources.
- Farmers and communities have the right to receive compensation for undisclosed use of traditional varieties.

1.5.1 Add: The funds shall be used to finance projects developed by the farming communities, ensuring equity for women.

1.6 Add: Community seed banks must be set up with farmers own rules, controlled by the community, and their access must be subjected to community authorization. Community seed banks should be seen as the bridge between in-situ and ex-situ conservation. Through them, the national gene bank should make its acquisitions available to farmers.

What about the "rich heritage of using local knowledge to cultivate a diversity of agricultural crops" mentioned in the introduction of the Seed Policy? Timor-Leste Seed Policy must include measures aiming at protecting and promoting traditional knowledge relevant to crop genetic resources, to halt this knowledge from disappearing. This can be done by collecting and documenting the remaining knowledge, sharing it to ensure continued use, teaching it to the younger generations, and encouraging its use.

2 Variety Development

2.1 "Development of plant varieties that are adapted to socio-cultural, economic and ecological conditions" is not sufficient. Add: The processes (producing, sharing, selling, etc.) must be adapted to Timor-Leste socio-cultural and economic context.

2.3 "The introduction and evaluation of advanced lines and improved varieties from outside the country will be supported to select new varieties with desirable traits adapted to local socio-cultural, economic and environmental conditions". Add: traits not available in existing local varieties.

⁴ Definition proposed by Farmers' Rights Project, at: <http://www.farmersrights.org/about/index.html>

2.4 Farmers will be provided with "relevant information": precisely what information? Add: parentage, production potential, any special requirement for production and use.

2.8 Hybrids

Priority must be given to the production of non-hybrid seeds, as hybrid seeds are not sustainable. Hybrid seeds, which under ideal growing conditions can give high yields, but only for one generation, do not satisfy the objectives of sustainability, of farmer's empowerment and of reduction of dependency.

2.8.2 No priority, subsidies or other support should be accorded to hybrids, as they are considered to decrease food sovereignty, and are already largely developed by the private sector.

2.9 Genetically Modified Organism (GMO)

The Tetum version of the draft Seed Policy is more restrictive than the English version, as it specifies that GMOs will be allowed for research and academic purpose *only* (de'it).

This policy should establish a **GMO ban**, including for research and academic purposes. Why should Timor-Leste waste its precious resources conducting research in this hazardous and highly technological area? We must refer to the principle of precaution and reject GMOs, because we cannot predict their long term impact on health and environment. In addition, previous experiences have shown alarming effects, such as a uncontrolled genetic contamination of non-GMO crops (Ex: from Bt cotton in India and Mexico, from Roundup Ready canola in Canada), transfer of GMO crops' traits to insects, etc.

Instead of "regulating" the development and deployment of GMOs, taking "precautionary and biosafety measures", allowing the GMOs use for research and academic purpose, and submitting GMOs imports and transport to authorization and bio-safety clearance, Timor-Leste Seed Policy should firmly forbid GMOs and set measures to control seeds, plants and derived products entering or developed in the country.

Add: Breeders will have to submit an affidavit that their variety does not contain a GMO, including Gene Use Restricting Technology (GURT) or terminator technology.

Add an article on the obligations of the breeder:

- The obligations of the breeder include mandatory disclosure of the source of parental varieties used in the breeding of the new variety.
- When farmers varieties or land races are used, this is to be accompanied by payment of a certain sum as 'royalty', under the clause of benefit sharing.
- The breeder also has to sign an affidavit that the variety does not contain GMO, including any sequences that will restrict gene expression and induce sterility (the so called terminator technology).

3 Registration and protection of new plant varieties

Timor-Leste Seed Policy should not promote standardization and homogeneity and must recognize that if uniform crops are suitable for mechanized, industrial agriculture, they contribute to biodiversity erosion.

Registration must not be used as a means to establish any form of IPR of the breeder on the plant variety bred by him.

3.1.2 It should be clearly stated that NDUS criteria are not applicable to farmers' new plant varieties (art 3.1.4 on special provisions is not clear enough).

3.1.4

Is registration mandatory? Even if registration is free, it can be a hurdle for farmers if the process is complicated. In addition, art 6.8 mentions compulsory licensing for all registered and protected varieties. As compulsory licensing revokes the exclusive right on commercial production and marketing of seed granted to the intellectual rights-holder, measures must be taken to protect farmers and communities engaged in commercial production.

Add: The varieties bred by farmers i.e. landraces or farmers' varieties must be provided protection from biopiracy (but it does not mean establishing property rights).

Add: Registration of GM seeds must be prohibited, to safeguard local varieties from genetic contamination and guarantee seed security

3.4 Intellectual Property Rights

Replace IPR by "sui generis protection system", or "intellectual rights protection system"

Timor-Leste does not have the capacity to create innovations requiring such protections.

Despite Timor-Leste's recognition of general IPR is mentioned in RDTL's Constitution, **IPR on living organisms** specifically is not.

This policy must favor an approach which gives priority to sharing of biological resources and knowledge between people instead of appropriation of knowledge via IPR, which don't respond to socio-economic concerns like food sovereignty.

This policy must not support the establishment of IPR on seeds because: they contradict fundamental beliefs and rights, such as the sacredness of life, the free flow of knowledge, the freedom of information, etc. ; they limit or impede access to and control over basic resources for peasant and indigenous communities; they destroy local and indigenous systems of knowledge, use and exchange ; they reinforce commercial and monopolistic exploitation of resources and knowledge created by local and indigenous communities.

The very concept of owning life forms or knowledge is basically incompatible with the worldview of non-Western societies. The ownership of nature, of living organisms like plants or seeds is not compatible with Timorese religious and moral views. IPR are not the appropriate legal protection tool for Timor-Leste, as they are antithetical to Timorese people's beliefs and thus contrary to their cultural rights. Seeds and plants are seen as a sacred gift (to use, share, pass, etc.) rather than a property.

In addition, new ownership conflicts may arise when farmers from different regions cultivating the same variety make simultaneous claims for their right over that variety.

3.4.1 Add: Patents over life forms and biological processes are not recognized and cannot be applied.

3.4.2 Effective *sui generis* system

The rights promoted should not be misinterpreted as IPR. This *sui generis* system is different from the IPR based systems promoted by the WTO TRIPS Agreement.

Timor-Leste Seed Policy must promote a system of protection of its own kind, adapted to Timor-Leste's context, that respects and promotes human rights, rural development, maintain genetic diversity and locally adapted seeds; that reaffirms the rights of farmers to save, use, sow, re-sow, exchange, share or sell their farm produce, including seeds of a protected variety, and their right to freely develop new breeds over the protected variety.

This system should recognize collective intellectual community rights, as well as the breeders' intellectual rights (different from property rights).

This system should include a mechanism to regulate seed supply and price: a provision for compulsory license to be issued if seeds are not sufficiently available in the market or if the seed prices are high (cf 6.8).

3.4.3 Remove IPR, add instead: intellectual protection rights.

4 Seed production

This section focuses on high quality seeds again, instead of exploring ways to multiply the local seeds used by farmers, to support informal breeding and improve seed storage.

4.4.3 Truthfully labelled seeds: this system is not suitable for companies, as there is a conflict of interest if companies certify their own products. A Truthfully labelled seeds (TLS) system is not strict enough for imported or industrial seeds, as it legalizes the sale of low-quality seeds but correctly labelled. The purchaser must be able to read and understand the information on the label. For seeds produced by companies, a certification system must be preferred.

4.6 Timor-Leste Seed Policy should adopt a demand-driven seed supply approach rather than a supply-based approach. It should respond to people's needs not increase demand.

4.8 Local varieties are by definition adapted to their environment. Support should be provided to *all* local varieties, not only the one with special traits.

4.9 "Special measures" is not specific enough. Why not subsidizing the production of these seeds by farmers, instead of just subsidizing their marketing (6.7.4)?

4.10 Public incentive (like technical extension services, tax-exemptions, market linkages etc.) must prioritize local varieties (not the modern, industrial varieties of seeds and plants).

4.13.2 This article should not be misinterpreted as a transfer of the National seed reserves responsibility to the Community Seed Banks.

4.14 Community seed banks should be managed and controlled by the communities, with the support from the government if necessary. Support must not be limited to CSPGs (cf art 1.6).

5 Seed standards and quality regulation

5.1.2

This article introduces a difference of treatment depending on if we deal with the production and marketing of seeds of *new or local* plant varieties.

But, the difference should also be made between seeds produced by farmers and seeds produced by seed industries, i.e. depending on *who* produces the seeds, not just between the type of seed produced. If seed industries produce seeds of local plant varieties, they should not benefit from "less stringent quality standards".

Timor-Leste Seed Policy should promote voluntary community level quality control mechanisms.

6 Seed distribution and marketing

6.2 If farmers want to develop their own brand and market their branded seeds, they shouldn't be excluded from the market or submitted to the same rules as the much more powerful actors of the seed business. Timor-Leste government should support (cf. art 7.8) any farmers' effort to create and sell branded seeds and products, for example through cooperatives or associations' name.

6.5 Make consistent with 3.4.4. "There will be no restriction of any kind for the farmers and farming communities of Timor Leste to save, use, reproduce, share, exchange or sell farm-produced seeds of all plant varieties, including IPR protected plant varieties in non-branded form (without putting any brand name).

6.6 "The distribution of seeds in the government program will follow market principles and fair pricing." Add: Definition of "fair pricing". Market principles must not determine the distribution of seeds in the government program. Instead, government programs should follow other principles like solidarity, respect of right to food, social and economic justice.

6.7 There seems to be a mistake in both the English and Tetum version of the Seed Policy: fee/free

6.7.1 This article opens the door to various subjective interpretations of what kind of seeds are "critical for national food security". Government subsidies should not be oriented towards the promotion of modern varieties but to support activities like the establishment and maintenance of community seed banks, facilitation of the marketing of farmer's seeds.

6.9 Should be more specific

The compensation should be specified, as well as the responsible. Add: the compensation should be large enough to be a deterrent. In the event farmers are not able to achieve the claimed performance on having cultivated under the specified conditions, the PBR-holder will be made liable to pay compensation to affected farmers.

6.10

It should be clearly stated that farmers or communities engaged in seed marketing are not concerned. The compensations due to farmers and communities under the clause of benefit sharing must not contribute to this fund.

7 Strengthen domestic seed sector

This section should include concrete measures aiming at responding to farmers current needs (7.8 is not enough). For example: Seed storage facilities or training on improved storage techniques at the farmer level (not centralised at the level of one enterprise); compost techniques; rain water storage, etc.

7.6 Loans should be attributed carefully, in order not to create a new source of vulnerability (indebtedness). Loans, especially when they are used to buy the intrants necessary to grow industrial seeds, are a burden for farmers. It is wiser to promote a low-cost, low-input agriculture model rather than to facilitate access to credit to buy expensive inputs. Timor-Leste should learn from other countries experiences like India, where one farmer commits suicide every 30 minutes⁵.

Instead, why not establishing a farmer-friendly Crop insurance scheme so that farmers who are affected by crop failure will be relieved of the subsequent financial burden.

8 Import and export of quality seeds

Before Timor-Leste produce seeds for export, it should be clear that the priority is to ensure that Timorese farmers have enough seeds not to depend to imported seeds or to buy food.

8.4.1 Why is there an exception for government institutions? All seeds imported should be subject to permit.

As this seed policy aims at supporting the local farmers' seed system, national agriculture and food sovereignty, local crops must be protected from unfair trading. For imports, crops that already exist in the local informal seed system must be subject to notification, and the

⁵ Cf. Report of the Center for Human Rights and Global Justice at New York University Law School, available at: <http://www.chrgi.org/publications/docs/every30min.pdf>

marketing of notified crops must be subject to prescribed formalities for release and registration. Varieties that can be imported should be listed.

8.6 Why is there an exception? As the draft authorizes GM seeds imports for research and academic purpose (point on which we don't agree) no exception should be made. All imported seeds must be subject to import permit.

8.9 Seed production for export should not be made at the expense of seed production for local use, i.e. at the expense of food sovereignty.

9 Implementation, Coordination and Monitoring of the Seed Policy

Where are the farmers?

Timor-Leste Seed Policy should give priority to farmers' participation in decision-making, a right that has already been recognized internationally⁶. Participation in decision-making related to plant genetic resources is about farmers' participation in the development and the implementation of legislation, agricultural policies and programmes, as well as capacity building in this regard.

9.3 Farmers must be involved in the seed policy formulation, implementation and monitoring.

Farmers groups must be represented in the National Council directly, not through NGOs.

9.7.3 No IPR should be recognized. Replace by: *sui generis* intellectual protection rights.

Conclusion

We would like to thank again the Ministry of Agriculture and Fisheries and Seeds of Life Program for providing us with the opportunity to participate as an observer in the National Seed Policy Working Group meetings. We hope the final version of Timor-Leste Seed Policy will take into account the concerns raised during the consultation workshops, and will incorporate more ideas and suggestions from La'o Hamutuk than the second draft did. We will be happy to meet and answer questions, to help you drafting a Seed Policy that will benefit the majority of Timorese people, especially farmers, and respect our specific economic, social and cultural context. We look forward to continuing our involvement in the process of developing Timor-Leste's policies and laws, including the Seed Law that will follow this Seed Policy.

Thank you,



Inês Martins
La'o Hamutuk Agriculture Team



Alexandra Arnassalon



Mariano Ferreira

⁶ FAO, International Treaty on Plant Genetic Resources for Food and Agriculture, available at: <ftp://ftp.fao.org/docrep/fao/011/i0510e/i0510e.pdf>