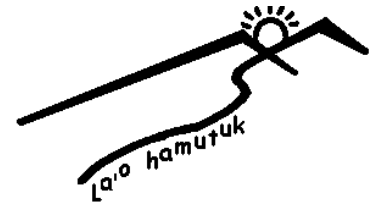


# La'ó Hamutuk

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## Statement to Media

### La'ó Hamutuk analysis of draft decree-law to establish a National Petroleum Authority (NPA)

13 June 2008

Timor-Leste is about to create a National Petroleum Authority (NPA), which will replace the Timor Sea Designated Authority (TSDA) for the Joint Petroleum Development Area. The NPA will also be responsible to regulate all petroleum exploration, production, processing and sales activities offshore and onshore in Timor-Leste. Petroleum is vital to the future of Timor-Leste, but oil and gas development can be a curse if not managed properly. Therefore, the NPA's responsibility is critical to turning our natural resources into a blessing for current and future generations of Timor-Leste citizens.

La'ó Hamutuk participated in this week's public consultation on this draft decree-law, and we appreciate that opportunity. However, with only five working days to read the draft and write our submission, we wonder if this is merely a token consultation, without any real intention for input to be considered before this law is put into effect. The Government set an artificially rigid deadline of 30 June for establishing the NPA, and then kept the draft law secret until less than one month before that date.

Nevertheless, La'ó Hamutuk found many omissions and mistakes in the draft that fail to protect the public interest, including concentration of power, vague mandate, lack of transparency and accountability, other dangers of corruption, and ineffective monitoring of petroleum operations. We believe it will take more than a couple of weeks to fully repair the legislation, including meaningful consultation and sincere redrafting.

In our submission to the Secretary of State for Natural Resources, La'ó Hamutuk suggests some important points to be considered, including;

1. This should be a law enacted by Parliament in open debate, not a decree-law passed secretly by the Council of Ministers. This would increase the legality, quality and stability of the regulation regime.
2. This law must comply with existing legislation, especially the Petroleum Fund Act, the Petroleum Act, and the Timor-Leste Constitution. The current draft violates fundamental principles in these documents.
3. The NPA should be a government agency, not a semi-autonomous *instituto público*. Its expenditures should be exclusively through the State budget approved by

Parliament. All revenues from petroleum-related activities should be deposited in the Petroleum Fund, and not used by the NPA outside of the budgetary process.

4. The NPA's primary responsibility is to safeguard the public interest, not the economic concerns of the petroleum industry. Its mandate must give adequate attention to environment, sustainability, good governance, worker safety, and community and human rights.
5. The NPA should be a regulatory body only, with policy-making reserved for the Government and Parliament.
6. The National Petroleum Authority should be involved in upstream operations only, and not have its mandate expanded. Midstream and downstream licenses for businesses are different from upstream production-sharing contracts, which involve exclusive access to state-owned oil and gas reserves. Downstream and distribution have their own goals and risks, and as Timor-Leste has never regulated them, this should be the subject of separate legislation.
7. Transparency is almost entirely lacking in this draft, which should be changed or augmented to ensure that important information is available to the public and that the public has meaningful input on decisions which affect them.
8. Decision-making power, appointments and access to information are too centralized in the President of the NPA and should be distributed to create checks and balances. The NPA Single Auditor should be appointed independently of the Authority and SERN, with NPA financial reports subject to outside audit. The NPA Board of Directors should be appointed from diverse sources, and the law should be specific about the qualifications for officials, and the reasons and processes for removing them.
9. There should be an independent advisory body for the NPA, as well as oversight by Parliament, the courts, the Provedor, the Prosecutor-General and other state agencies and other independent bodies.

La'o Hamutuk thanks the Secretary of State for Natural Resources and others involved in this process for considering our suggestions. We remain ready to provide clarification and ideas, and look forward to continuing collaboration so that Timor-Leste can enact the best legal regime possible to manage this dominant, lucrative and perilous aspect of our nation.

We hope more people in the media and civil society, as well as supporters of Timor-Leste around the world, will become engaged in this process to help Timor-Leste develop an effective and strong regulatory process which can prevent the resource curse.

Thank you.

*La'o Hamutuk's website contains the full text of the draft decree-law and our submission, as well as background and other information, at*  
<http://www.laohamutuk.org/Oil/PetRegime/NPALaw/08RestructIndex.htm>