

Transition Support Program FY2003

Progress Mission Draft Aide Memoire

Dili, November 11-22, 2002



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DRAFT AIDE-MEMOIRE TRANSITION SUPPORT PROGRAM

PROGRESS MISSION

November 30, 2002

OVERVIEW

1. The Transition Support Program (TSP) Progress Mission Teamⁱ, comprising representatives of the World Bank, AusAID, USAID, Portugal and Ireland Aid visited Timor-Leste from November 11th to November 22nd to undertake the first review of TSP. The TSP mission team received wide-ranging and comprehensive support for its work from throughout Government and expresses particular appreciation for the contribution and assistance provided by the Vice-Minister for Planning and Finance, Aicha Bassarewan, and the team from the Planning and External Assistance Management Division (PEAMD).
2. The purpose of the TSP mission was to work with the Government's TSP Team to:
 - (a) Assess progress in the implementation of the TSP described in the Letter of Development Policy;
 - (b) Identify delays in the delivery of technical assistance and its impact on the program implementation;
 - (c) Identify where the program is not on schedule, the principal causes and constraints and propose ways to overcome these;
 - (d) Identify emerging issues of concern in relation to TSP among program stakeholders; and
 - (e) Start identifying possible focus areas for TSP FY2004 program.
3. This draft Aide-Memoire is submitted for the Government's consideration and seeks to provide an overview of the findings of the TSP mission, detail agreements reached regarding the next steps in implementation, as well as to help with preparation of future phases of TSP.
4. The TSP Progress Mission Team would like to congratulate the Government on the progress so far made in implementation of the TSP program and their commitment to achievement of further results. The efforts made against the TSP Action Matrix have demonstrably made a significant contribution toward the early achievement of objectives set out in the National Development Plan (NDP).

ⁱ The Mission was led by Adrian Fozzard (World Bank, Senior Public Sector Specialist, Task Team Leader), and comprised (from the World Bank) Elizabeth Huybens (Senior Economist and Country Manager), Markus Kostner (Veterans Issues), Ian Morris (Health), Alfonso de Gusman (Education), Andrew Laing (Public Sector), Jorge Graca (legal), (from AusAID) Cynthia Burton (Public Sector), Robert Jarman and Roger Dickson (Power), (from USAID) Craig Wilson (Private Sector Development), (from Portugal) Pedro Vasconcelos (Judiciary) and (from Ireland Aid) Garvan McCann (Poverty Reduction). The TSP mission coordinated closely with representatives from the ADB and IMF.

5. During the course of the mission, the TSP mission team revised the timing and sequencing of the various actions identified by Government in the TSP FY2003 Action Matrix. The TSP Action Matrix presented in the Government's Quarterly Report was reviewed by the TSP mission team and the Government during the various plenary sessions held during the second week of the visit. Inevitably some actions have been delayed, often due to delays in the mobilization in technical assistance. These actions have now been rescheduled. Some new actions have been introduced, others have been reformulated to reflect a better understanding of requirements. A small number of actions have been put back to FY2004. It is recommended that the Government TSP Team review the revised Action Matrix so as to identify any errors in transcription.

6. In addition to Annex A, Annexes B to J present Mission members' assessments of program implementation issues, emerging issues of concern to stakeholders not covered by the Action Matrix, technical assistance issues and issues for consideration in the preparation of the FY2004 program.

Reporting

7. At the Government's suggestion, detailed quarterly sequencing was agreed for each of the program components, allowing the TSP Action Matrix to be used as a working tool. As provided for in TSP Grant Agreements, the PEAMD prepared the TSP First Quarter Progress Report in October 2002. The mission found the report to be an accurate presentation of the progress made to date. The report provides Government and development partners with an overview of progress in implementation of Timor-Leste's wide-ranging national development agenda. In addition to the formal quarterly reports, the Government continues to monitor and report on implementation in concert with development partners through the monthly donor meetings.

Summary Findings

8. Six months after Independence the fragility of the systems and structures put in place before the transition is becoming all too apparent. Key constraints identified by the Mission include:

- Personnel systems focusing on recruitment, without the supporting systems for day-to-day personnel management and human resources development in the public sector;
- International personnel filling in-line functions, often too busy or ill-equipped to provide proper training for counterparts;
- A financial management system geared to control, often without the benefit line agency level planning and management systems to facilitate the delivery of services;
- A weak judiciary, with a few poorly trained personnel, and with incipient supporting oversight structures and framework legislation;
- Existing drafts of legislation are not backed by an embedded policy and consultation, lacking of a defined policy and legislative drafting process at the level of the executive; and

- A history of unsuccessful attempts at putting in place cost-recovery and enforcement mechanisms in the power sector, with unreliable power generation and poor compliance by customers.

9. Through the NDP and supporting TSP process, the Government has put in place an ambitious program that seeks to address these problems. Inevitably implementation has proved difficult, not least because of the pervasive capacity constraints and the crowded agenda of urgent issues to resolve. The Aide Memoire provides an assessment of the progress made so far. It also seeks to provide technical guidance on how the Government might go about addressing the problems identified. Some of the key issues identified in the Annexes are summarized below:

10. Poverty Reduction Planning

- Preparation of the Annual Action Plans across the whole of Government is a considerable achievement. The challenge ahead is to ensure that the plans are implemented, indicators are agreed and targets set so that progress can be monitored.
- The planning framework laid out in the “building blocks” – including the medium-term expenditure framework, the budget, the annual action plans - provides for close coordination between the planning and budget processes. The “building blocks” could be further strengthened by: stressing the importance of defining measurable indicators and targets for key programs; integrating the consultative process; and continuing to engage development partners in the planning process.
- A concept paper on the design of the consultative process for monitoring implementation of the NDP is now scheduled for completion by the end of FY2003, rather than proceeding directly to the appointment of a high level structure as originally proposed. Progress in this area will be an important consideration for the FY2004 program.

11. Education

- Adoption of the national education policy through national consultation will guide the institutional framework and medium-term plan for primary and secondary education. It will also provide a framework for partnerships with private schools, religious organizations and other partners. It will also serve to guide external assistance to the sector.
- Adoption of the national curriculum for primary and secondary education has important operational and financial implications, including options for effective implementation of the official languages of instruction, will provide the basis for text book selection, teacher recruitment and training and financing for basic education.

12. Health

- The Ministry of Health (MoH), consistent with the TSP agreements, has made major steps in planning for future health systems development with a focus on rural

service delivery. The development of a health policy framework is a major milestone. Developing a medium term expenditure plan to implement it is an emerging challenge.

- The TSP focuses on two core health services – immunization of children and maternal and child health. The MoH is aware that the rate of expansion of the immunization program has stalled and faced supply constraints for midwife training. Targets have been revised but MoH has developed a specific action plan to begin to refocus efforts on immunization and rural service delivery.
- Health expenditure is relatively low compared to plans, but actions (including development of a procurement plan) are under way to improve expenditure performance. Hospital expenditures need to be managed carefully as they are in danger of exceeding the agreed 40% share of the budget. MoH and the Ministry of Planning and Finance (MoPF) will jointly review a range of basic administrative procedures constraining expenditures. The staff freeze means some key positions remain vacant and that salary expenditures are low.

13. Veterans Issues

- The Government has addressed the issue by establishing two veterans commissions (CAAC – for 1975-79 and CAVFⁱⁱ for 1981-99) to register veterans and ex-combatants. It will be very important that the definition and discussion of veterans criteria and policies will be deferred until the registration of all veterans and ex-combatants has been completed.
- The Veterans Affairs Unit (VAU) with the Secretariat of State for Labor and Solidarity has been established. It will be the unit responsible for the implementation of veterans policies once they have been defined. In the event that policy and stakeholder dialogue is insufficiently advanced by the time of the FY2004 budget process, it would be advisable that a tentative allocation be made to the VAU. Further, the VAU will need to ensure that it secures adequate technical assistance as well as additional civil servants once the recruitment freeze has been lifted.

14. Public Sector Management

- Delays have been encountered in the implementation of the Government's ambitious legislative program. Some delays are of a logistical nature - translations and fielding of technical assistance - while others are a consequence of the preparation or adaptation of legislation prior to agreement on the policy issues and the lacking of legal expertise for drafting of legislation on the subjects prioritized by the NDP . Definition of the legislative process, with the preparation and review of a policy statement as a starting point, and opportunities for consultation, and recruitment of relevant expertise are possible solutions..

ⁱⁱ Comissão para os Assuntos dos Antigos Combatentes (CAAC) and Comissão para os Assuntos dos Veteranos das Falintil (CAVF)

- The institutions responsible for the recruitment and management of civil servants – the Public Service Unit and Public Service Commission – are overwhelmed. This is partly due to the premature withdrawal of technical assistance, inadequate staffing of this critical function and the lack of clearly defined procedures. As a result of poor record keeping the Government is exposed to serious fiduciary risks. Current capacity constraints will be compounded when the recruitment freeze is lifted and the Civil Service Statute is passed. From the Mission’s perspective, the fielding of technical assistance to these units is the highest priority across Government, and some consideration should be given to the appointment of dynamic national staff to manage the personnel management function.

15. Private Sector Development

- The mission team and the Government agreed (subject to Council of Ministers review) that the draft Commercial Code in its current form was overly complex. Consequently, the next steps will involve drawing on the contents of the draft Commercial Code to produce a series of smaller, simpler laws, starting with laws on incorporated and unincorporated entities, contract and bankruptcy.
- The revised TSP Action Matrix calls for the draft investment law and investment policy to be floated for consultation before the end of the second quarter. The first land law (juridical regime on real estate) is at an advanced stage and is on track to be passed by parliament before the end of the second quarter.
- In the near future (the remainder of this year and FY04) some of the key issues/actions that the Government needs to focus on include: supporting the formation of a peak Chamber of Commerce; ensuring completion of a Terms of Reference (TOR) to procure expertise to carry out the feasibility study on the industrial zone proposal; reviewing policy and procedures for designing, managing and issuing business licenses and permits; Government ability to manage political pressures vis-à-vis economic policy making (for instance, in relation to price controls, concessions or licensing); and the need for Government to begin to turn its attention more toward foreign trade policy development.

16. Judiciary and Ombudsman

- The establishment of the Superior Council for Magistrates is a very important benchmark because it allows for the management of courts, the exercise of disciplinary powers, and the appointment of judges by a governing body independent from political power. This is a prerequisite for bringing normality to the court. So too is the establishment of the Court of Appeals. Priority should be given to capacity building and management in these institutions. Technical assistance is needed to address these specific needs.
- The functioning of judicial system is severely constrained by the lack of a common language. Measures to address this constraint may include: translation and making available of all applicable legal texts into the official languages – Tetum and Portuguese – and into Bahasa and English for all staff; and preparation of a legal

dictionary. Systematic capacity building efforts are also needed through the design and implementation of coherent training program for the sector.

- The approval of legislation on the ombudsman and the establishment of the ombudsman office are also measures required for human rights protection and law enforcement promotion.

17. Public Expenditure Policy and Management

- The core financial management system is sound, supported by efficient procurement and treasury functions. However, budget execution is slow. This is largely due to poor understanding of financial management and procurement procedures in line agencies, causing delays as MoPF seeks clarification, and weak procurement and expenditure planning. Delays in the installation of the government-wide network, which would allow agencies to track requisitions on line, compounds these problems. Frustrations with the budget process inevitably create pressures for MoPF to delegate expenditure commitment and procurement responsibility to agencies. This would seriously undermine budgetary discipline. The Mission urges MoPF to intensify training activities for line agency personnel.
- The proposed revision of the FY2003 budget is broadly consistent with the expenditure structure and staffing levels laid out in the TSP Matrix. However, subsidies to the power sector continue to exert pressure on the budget. Government will have to exercise tight control over EDTL spending to protect other priority programs.

18. Power

- The Mission estimates that the proposed \$2.5 million supplementary budget should be sufficient to maintain current service levels if there is a 25% improvement in cost recovery. Compliance with EDTL's revised budget limits is best achieved by a concerted effort to apply the cost disconnection directive, whilst agreeing and adhering to a realistic funds release schedule for the remainder of the FY2003. Shortfalls in revenues would then have to be met by orderly load shedding. Participating donors request that a funds release schedule is prepared for the sector and communicated, and is monitored through the monthly and quarterly Treasury reports shared with donors so as to ensure that the program remains on track.
- Given the financial constraints, it is critical that Government manages expectations regarding the services that can be provided, informing and educating the public regarding the choices that have to be made between delivery of basic services to all and electricity to a few. Government will only be able to afford providing 24 hour electricity services when the financial situation of the sector has stabilized.
- The Management Contract, supported by the use of pre-pay meters, provides a mechanism for improving cost-recovery. By establishing the basis for enforcement Government will be able to restore control over the sector – at present policy is dictated by consumers rather the providers. Once control has been restored, the Government will be able to use tariff regime changes to address its policy concerns. Consequently, the Mission urges Government to expedite the review, finalization

and issue of tender documents before the December donors meeting. It also urges the Government to set aside adequate funding in the budget for the pre-pay meters so that these can be presented as an integral part of the contract.

FY2004 TSP Preparation Process

19. In order to reduce the work load on Government, the TSP Team proposes that preparation of the FY2004 program be integrated as far as possible with the Government's internal planning and budget process. Following this approach, the TSP Mission would provide support to Government at an early stage of the FY2004 planning and budget cycle, to assist in the definition of priorities based on the NDP and key actions in selected agencies' Annual Action Plans. This approach would:

- help ensure that the Annual Action Plans focus on NDP priorities, allowing the FY2004 TSP Action Matrix to be abstracted from the plans prepared by Government, rather than prepared through a parallel process;
- allow the TSP Team to support MoPF and line agencies in their planning process, participating in capacity building activities; and,
- reinforce decision-making within Government.

20. In line with this approach, the TSP Team proposes that the Preparation and Appraisal Missions coincide with key dates in the planning and budget calendar. Mission schedules also take account of the World Bank's internal requirements for processing this kind of financing operation. On the basis of discussions with MoPF, the following schedule is proposed:

- **January 2003:** Launch of planning and budget process, with circulation of planning guidelines and budget circular.
- **Early February 2003** (proposed dates February 3-17): Prioritization and start of preparation of FY2004 Annual Action Plan. The TSP Preparation Mission would work with MoPF to clarify priorities and assist agencies reflect these priorities in the agencies' Annual Action Plans. The TSP Team, participating development partners, would agree a draft Action Matrix, specifically identifying institutional responsibilities for each of the proposed actions so that these can be reflected in the respective agency's Annual Action Plan.
- **March 2003:** Agencies prepare Annual Action Plans, incorporating actions identified in the draft TSP FY2004 Action Matrix.
- **Early April 2003:** Finalization of agency Annual Action Plans and budget submissions. The TSP Appraisal Mission reviews agency plans and finalizes the FY2004 Action Matrix in discussion with Government.

21. During the present mission, the TSP Team discussed priority issues to be addressed in the Government's FY2004 program with Government and other stakeholders. Building on the National Development Plan and the FY2003 TSP, the following areas for FY2004 were tentatively identified:

- Service delivery in education and health;
- Governance, including anti-corruption measures;
- Law and Order;
- Poverty Reduction Planning;
- Private Sector Development;
- Public Sector Management; and
- Expenditure Policy and Management.

22. Reflecting the priority areas and the integration with the Government's annual planning and budgeting process, the TSP Mission anticipates a change in the nature of program benchmarks and indicators. Where the FY2003 program was strong on processes and legislation, the FY2004 program is expected to be strong on outputs and outcomes, with greater emphasis on quantitative and qualitative measures of service delivery performance. This improvement is consistent with the Government's concern to ensure that plans are translated into action on the ground, to improvements in the quality of life for citizens. At the same time, the TSP Mission believes that it is important to consolidate progress made in the setting up of core management and oversight functions, particularly in financial management and personnel management.

23. All development partners have participated actively in program preparation and monitoring – whether or not they are financing partners for the TSP. The TSP Mission commends Government for its spirit of open dialogue and willingness to engage in debate on policy issues. It is hoped that this has helped both Government and development partners coordinate and prioritize their programs. The Mission is cognizant that the World Bank is just one among many development partners. While the World Bank plays a role in the administration of assistance, not least of which is the preparation of supporting documentation for the appraisal of financing operations, the TSP will continue to be prepared and implemented through a collaborative process led by Government.

24. As a member of the International Development Association, new IDA-financed or administered operations must be approved by the Board. The FY2004 Transition Support Program will have to be supported by an updated policy statement that satisfies Board requirements and a FY2004 Action Matrix. The Bank's TSP Team are available to assist the Government of Timor-Leste in satisfying these requirements.

Financing

25. Table 1 below provides the current status of TSP World Bank Administered Trust Fund agreements. The contribution agreement between the Bank and Norway is awaiting final clearances prior to signature. The amount of Sweden's contribution is yet to be confirmed. Funds under the World Bank and the Government of Ireland for FY2003 contributions were transferred to the Government of Timor-Leste in August, the FY2003 contributions of New Zealand, Australia and United Kingdom have been received by the Bank and will be transferred on or before December 3, and the contribution of the United States of America has been received by the Bank and will follow shortly.

26. The TSP Mission understands that the Government is negotiating with the Government of Portugal regarding their bilateral budgetary support contribution.

Table 1: Transition Support Program: Current Status of World Bank Administered Financing

Trust Fund	Donor	Holding Currency	Fee off Principal	Interest	Contribution Agreement	Grant Agreement	Commitment Currency Gross				Commitment Currency Net			
							FY03-FY05	FY2003	FY2004	FY2005	FY03-FY05	FY2003	FY2004	FY2005
TF050765	Australia	AUD	2%	Donor	Signed 3 yrs	Signed 1 yr	24,500,000	10,210,000	8,165,000	6,125,000	24,010,000	10,005,800	8,001,700	6,002,500
	Finland	EUR	2%		Prep. 1 yr		347,592	347,592			340,640	340,640	-	-
TF050752	Ireland	USD	2%	Donor	Signed 1 yr	Signed 1 yr	1,000,000	1,000,000	-	-	980,000	980,000	-	-
TF050777	New Zealand	NZD	2%	Donor	Signed 1 yr	Signed 1 yr	500,000	500,000	-	-	490,000	490,000	-	-
	Norway	NOK	2%	Donor	Prep. 3 yrs		75,000,000	25,000,000	25,000,000	25,000,000	73,500,000	24,500,000	24,500,000	24,500,000
	Sweden				Prep. 1 yr		-				-	-	-	-
TF050766	UK	UKP	2%	Donor	Signed 3 yrs	Signed 1 yr	12,000,000	4,000,000	4,000,000	4,000,000	11,760,000	3,920,000	3,920,000	3,920,000
TF051461	USA	USD	2%	Donor	Signed 3 yrs	Signed 1 yr	12,000,000	4,000,000	4,000,000	4,000,000	11,760,000	3,920,000	3,920,000	3,920,000
	WB-PCF				Signed 1 yr		5,000,000	5,000,000			5,000,000	5,000,000	-	-

Annexes

ANNEXE A: POVERTY PLANNING

MATRIX A1

PROGRAM IMPLEMENTATION ISSUES

A-1 Keep the vision alive and operationalise the National Development Plan and adopt permanent institutional arrangements for routine planning, regular consultation and revision of the Plan as required

- **Focal Points:** The designation and TORs of planning focal points contacts in each Government agency was approved in July. However, due to transfers and overseas training commitments, focal points have often changed. As a result, on-the-job and formal training undertaken with officials has had to be repeated, and meetings to discuss Agency Action Plans (AAPs) and Quarterly Monitoring Reports (QMRs) have often been delayed. In the later stages of the AAP/QMR process, focal points' workloads were often excessive. *Comments: The Mission considers the focal points as critical to the effective operation of the planning system. In order to strengthen this role, it is suggested that: a) each agency has two competent and trained staff fulfilling this role, liaising with both PEAMD and Budget Office; b) efforts are made to stabilize the planning cadre, with appointments for a minimum of one year; and c) investments in training continue during the FY2004 budget and action plan process.*
- **Annual Action Plans:** A total of 128 AAPs from the various sub-divisions in 16 different Government Departments were produced. The AAPs are a remarkable achievement. In August/September PEAMD carried out intensive work with agencies and Ministries focal persons, particularly concentrating on outputs, benchmarks and indicators. This effort was supported by intensive training, in which staff from PEAMD and the Budget Office together with facilitators from UNDP, UNICEF and World Bank provided workshops to introduce the formats for AAPs and advised focal points and other agency staff. Agencies submitted completed AAPs to PEAMD, which were then reviewed and revised. Final drafts will shortly be formally approved by the CoM. Many Ministries found this exercise difficult and results were of variable quality. PEAMD has identified in the AAP process, such of lack of awareness of budget allocations, changes in focal point, lack of support from TA in line agency functions, conflicting reporting commitments and poor filing and document management. PEAMD has also identified concerns regarding the quality of the AAPs, including: ill-defined objectives and outcomes; proliferation of indicators in some plans; lack of clarity regarding the links between components, activities and expected outputs; and inconsistencies between AAP programs, the budget and NDP. *Comments: The Mission endorses the recommendations generated through PEAMD's internal evaluation of the AAP process, particularly as regards to: a) the need for continuing training and capacity building to improve AAPs; b) the preparation of*

AAPs needs to be linked to the budget process so that agencies are more aware of budget constraints and the activities developed under TFET and bilateral projects; c) greater attention needs to be given to the definition of intended outcomes, objectives and performance indicators; and d) the structure of programs needs to be rationalized and linked to institutional responsibilities and budget allocation.

- **Road Map to operationalise the NDP beyond FY03:** The Government’s concept of the “Road Map” has evolved since the June TSP Appraisal Mission. The intention, as described to the Mission, is to undertake a prioritization exercise, based on the National Development Plan for the period to FY2006. This will provide one of the “building blocks” of the planning system, comprising a medium-term prioritization exercise, feeding into annual action plans, complemented by a medium term expenditure framework, which supports the annual budget process. The Government intends to present the “building blocks” for the planning process at the December 2002 donors’ conference. As in FY2002, when the National Development Plan was prepared, the Government will also prepare documentation that provides guidance to line agencies in managing the planning process. This is expected to be reviewed and circulated before the launch of the FY2004 planning and budgeting cycle. *Comments: The Mission considers the “building blocks” an excellent framework for the planning process aimed at operationalization of the NDP. Its particular strength is the integration of the planning and budgeting processes, which will prove invaluable in ensuring that resources are channelled towards the priorities identified by Government. The Mission believes that this framework would be further strengthened by:*
 - (a) *Stressing the importance of defining an appropriate set of measurable and **monitorable indicators and targets** for outputs and, where possible, outcomes. This is an essential tool in driving service delivery and ensuring accountability for results. The large number of indicators in the NDP is unmanageable: a small sub-set would have to be negotiated between the MoPF and line agencies during the planning process and reflected in the AAPs, the budget and the proposed “road map”.*
 - (b) *It is important to cement a **consultative process** into the “building blocks” of the planning system. While the Government cannot be expected to repeat massive consultations that were undertaken during the NDP process, it can identify the opportunities and mechanisms for consultation with citizens and civil society organizations during the routine planning cycle (see below).*
 - (c) *It is clearly in the Government’s interest to bring **donors** into the planning process, so that external financing can be prioritized and programmed alongside the Government’s domestic resources. For this to be possible Donors have to be informed about and consulted at the design stage: not so that they drive the process, but to discuss with the Government how best to tailor their internal requirements to meet the Government’s needs. This could be achieved by the early circulation and discussion of a document laying out the “building blocks” for the planning and consultative process. From the perspective of this Mission, for instance, such a document is an essential support to the mobilization of Bank assistance, justifying the proposed*

process for the preparation FY2004 Transition Support Program laid out in the main body of the Aide Memoire.

- **Participative Monitoring of the NDP:** Unfortunately the process of setting up the high-level structure for participative monitoring the implementation of the NDP has been delayed. Government now proposes to prepare a Concept Paper which it will finalize by June. *Comment: For the Mission, the principal purpose of the consultative process is to ensure that the planning process benefits from feedback, both on its priority setting and as a “reality check” on implementation. This should support the Government’s process and monitoring activities. The Mission supports the Government’s efforts to prepare a concept paper on this issue, so that stakeholders can express their views and Government can take a considered decision on the appropriate arrangements.*

EMERGING PLANNING ISSUES

- **Translating plans into action:** Various stakeholders expressed concern that the planning process diverted resources from day to day management of service delivery. While not endorsing this view, the Mission considers that the translation of plans into action, to improvements in public services is the greatest challenge facing Government. While the AAPs serve a useful purpose in identifying priorities and programming actions, it is less clear that the plans are used to guide agencies’ day to day, and month to month work in delivering services to the poor. *Comment: In this context, the Mission urges caution on the development of sophisticated, longer-term planning exercises. Perspective planning and multi-year prioritization is important, but it is probably best viewed as an indicative exercise which would broadly define priority areas for service delivery and a few key benchmarks for each institution, drawn from the NDP. Planning actions and projects three or more years down the road in detail will be difficult and may engage agencies in complex programming issues, unless agencies are instructed to focus carefully on only the very most important outputs and outcomes.*
- **Coordinating donors and reducing transactions costs:** The Government rightly complains about the huge transactions costs of managing external partners and the detrimental effect on agencies’ work. *Comment: Experience from other countries in a similar situation suggests that there are measures that can be taken to reduce – but not eliminate – these costs: a) Consolidation of programming and supervision mission and their synchronization with the Government’s planning and monitoring calendar offer one channel. For the TSP, there is clearly a need to integrate more closely with TFET Joint-Donor Missions which could cover key service delivery sectors such as education, health and private sector development; and b) Sector working groups offer a means of consolidating and coordinating donor inputs at both an operational and policy level. This approach would be most helpful in the health, education and agriculture sectors where there is already a strong policy direction from Government and large numbers of donors.*

ISSUES FOR THE FY2004 PROGRAM

- **Focusing Service Delivery:** In preparation of the FY2004 AAPs and budget special attention should be given to service delivery programs and the actions needed to bring about improvements. Performance indicators play a part here: particular care should be taken to identify appropriate, measurable and monitorable targets for key public services such as education, health, infrastructure and public order. This has implications for the TSP focus areas, with greater attention paid to the presentation and monitoring of targets in these areas.
- **Civil Society Involvement:** Greater involvement of civil society in planning and monitoring is seen as tool for improving transparency and efficiency in public services. It is proposed that the TSP follow-up on the Government's plans to develop a consultative process and explore mechanisms for consultation and participation at lower levels of the administration, closer to the service delivery point.

ANNEXE B: EDUCATION

MATRIX A2

PROGRAM IMPLEMENTATION ISSUES

A-2 Prepare FY03 Ministry action plan.

- **Refinement of action plans:** The Ministry has developed complete action plans for primary and junior secondary education under TSP as well as for all other sub-sectors of education, from early child development through senior secondary, technical-professional, non-formal, higher, and continuing education. The action plans for TSP, are currently being updated and refined and by Ministry staff, in collaboration with colleagues from PEAMD and the Budget Office. Refinements include: i) recasting some activity descriptions into more operational terms (e.g., *provision of textbooks*, a general term, is re-expressed as *textbook procurement* and *textbook distribution* which allow for the measurement of financial requirement, book quantity and quality, and begin-end times); and ii) specifying outputs, benchmarks, or indicators consistent with those established in the National Development Plan and Budget Paper No. 2 (e.g., the terminal activity *report and turnover of list of textbooks distributed* is re-expressed as a *textbook-pupil ratio*, the expected outcome in a specific subject and grade for which a textbook is procured and delivered).

A2 Prepare TORs and launch development of national education policy, institutional framework, and medium-term action plan for primary and secondary education, including partnership with private schools, religious organizations, NGOs, and parents, focusing on expanding access, improving internal efficiency, and quality.

- The Ministry's draft ToRs is a concept note that sets out the objectives, process, and outputs of a planned national consultative congress in education among stakeholders. The concept note describes the preparatory activities to be undertaken, the task teams to be formed for the event, and the education issues and concerns to be discussed with the stakeholder-participants (among them representatives of parents organizations and other community groups, district educators and leaders, the Church and other NGOs). A notable feature of the congress is the organization of participants into workshops of their choice at which the pre-identified issues will be discussed and recommendations formulated for presentation at larger plenary sessions, for due consideration by the Ministry.
- The Ministry is developing a more detailed timeline from November 2002 to March 2003 (the quarter in which the congress will be held), a better estimate of financial resources required, and a more exhaustive list of technical assistance (and ToRs)

that will assist the Ministry in the undertaking. By November 30, 2002, the Ministry expects that the concept note will have been translated into Portuguese and Tetum and discussed among directors of the Ministry, prior to presentation to donors for their input and assistance. The Ministry also expects that substantial discussion and consensus-building, especially in narrowing the list of topics for discussion in the congress (from the present 11 to a suggested 4 or 5) will have been accomplished before the December holidays.

A-2 Prepare an options paper on the role of parents’ associations in primary school management.

- The Ministry has convened three round-table consultations with representatives of the central ministries, donors active in the education sector, and the Church on the terms of reference for expert consultant assistance in and draft charter for parent-teacher organizations. The consultant has been recruited and has started work. The options paper is seen more as a concept note that will be developed in consultation with stakeholders. The consultant has indicated that the note can be available for comment by December 31 (not September 30 as originally targeted). The round-table advice is to focus on delivering a quality concept note over an appropriate time frame.
- The Ministry proposes two actions: (i) to reschedule this activity in the matrix to December 31, 2002; and (ii) to refining the activity description in the matrix to the following: “Present a concept paper on the options, processes, and training and other requirements for the piloting of parents associations’ role in primary school management.” *Comment: The mission endorses the Ministry proposals.*

EMERGING EDUCATION SECTOR ISSUES

- **Curriculum guidance:** The education sector has successfully undertaken emergency recovery operations to restart primary and secondary schools following the devastation of 1999. School buildings are operational, and children have returned to school, in greater numbers than expected (and momentarily putting pressures on physical facilities provision). However, the desired education efficiency and quality may not be achieved unless fundamental guidance can be provided. *Comment: In this regard operational policies on curriculum development, including strategy options for more effective introduction of the official language of instruction, are urgently needed. A school curriculum in place provides the basis for textbook selection, teacher in-service training, achievement testing, and ultimately financial planning for the basic education sub-sector.*
- **Teacher supply:** The recruitment of teachers, especially for junior secondary education, needs priority attention this fiscal year to ensure appointment in time for next school year (FY2004). Teacher supply is still short at this level of education (occasioned by the departure of Indonesian teachers following the pre-independence disturbances) and will be further exacerbated as primary cohorts move up to the junior secondary level and as the Ministry proceeds with the

reconstruction and upgrading of junior secondary schools with TFET, other multilateral, and bilateral assistance.

- **Teacher support:** Teacher absenteeism and other disciplinary behaviors noted in earlier assessments belie the need for effective policies and programs for teacher pre-service training, selection, recruitment, career pathing and compensation, in-service training and qualification upgrading, and academic and professional support in service. As curriculum develops and teacher supply requirements are filled, teacher training demands will increase. The Ministry's budgeted programs for the Institute of Continuing Education as well as proposals for project operations in the specific areas listed above proposed by the donor community should now be given priority attention.
- **Protection of basic education finance:** The Ministry's analysis of recurrent cost implications of investments, especially higher education, is that the burden remains manageable but a future risk. *Comment: To ensure the continued availability of financial, human, and material resources for primary and junior education, the Ministry is urged to conduct continual assessments of recurrent expenditure and to explore alternatives for minimizing their unfavorable effects.*

TECHNICAL ASSISTANCE ISSUES

- **Action planning:** The Ministry's planning unit, consisting of a Planning Director assisted by a UN education consultant, is overwhelmed by TSP, TFET, bilateral donor program, and many other demands for planning information and intervention. *Comment: The identification of appropriate technical assistance during the next 12-month period is recommended to ensure that the planning obligations of the Ministry are met in a timely fashion and at the expected level of quality and to enhance the planning capacity in the Ministry.*
- **Sector policy and institutional framework:** The Ministry will employ resources from the second TFET operation (Fundamental School Quality Project) to support the technical assistance requirements of the proposed congress. *Comment: Nevertheless to ensure the success of the congress, the Ministry will need further technical assistance, especially in (i) abstracting and digest-rewriting into 3-page briefs the various technical sector papers available to the Ministry through donor cooperation (TFET, World Bank, bilateral assistance programs) and translating them into the official languages of Timor-Leste; (ii) promoting the interest and participation – and managing the expectations – of civil society as to the content and intent of the proposed congress; and (iii) technical preparation and administration of the congress itself (venue arrangements, event coordination, simultaneous translation, rapporteur services, post congress documentation and follow up). (The Ministry's expectation is that the members of the donor community active in the education sector will actively participate and substantially support the congress.)*

- **Parent-teacher organization:** The Ministry enjoys support from donors in the round-table consensus-building and provision of expert technical assistance. Further support may be needed as the process moves forward from concept through stakeholder discussions and piloting in the field. The Ministry also expects that this process is conducted in phase with that of the larger policy congress (above).

ISSUES FOR THE FY2004 PROGRAM

- **Curriculum and teacher training:** Programs and projects identified by the Ministry (above) to complement investments in physical facilities should be provided financial support for development this during the remaining semester of this fiscal year so that the programs and projects may become effective next fiscal year.
- **Teacher recruitment:** The schedule for the evaluation of teacher candidates, currently conducted overseas, should be reviewed and adjusted to ensure that teacher appointments and posting can be successfully processed this fiscal year, in time for the opening of school in September 2003.

ANNEXE C: HEALTH

MATRIX A3

PROGRAM IMPLEMENTATION ISSUES

B-1 Ensure Implementation of annual legislative program

- **FY03 MoH Action Plan:** The Action Plan three program budget areas – broken down into a total of 25 sub-program lines. Most program lines are the clear responsibility of a specific section of the MoH. The action program and budget was coordinated within the finance section of the MoH with support from the Program Management Unit and involved activity plan development by the respective units/sections of the MoH – although the short time period given to MoH for activity planning/budget preparation for FY03 meant this was not as consultative as desirable and highlights the need for forward planning by MoPF.

There is a very strongly felt need within the MoH to have the budget and activity plan guidelines for FY04 out by February 2003 so that it can begin the process according to an agreed cycle/time table and according to clearly articulated formats.

The action plan is comprehensive but included many more indicators than is desirable. Targets were less well specified - often without a clear base line and were also often over-ambitious. Fewer, well specified targets and indicators would be better. All targets and indicators need to be part of the overall MIS system of the MoH.

The Management Information System (MIS) is being further developed under the TFET projects and the quality of the data should improve overtime. Attention is being paid to the quality of the data. Priority is being given to monitoring the key services which are part of the core essential health package the MoH is attempting to deliver as part of its plans. The MIS is primarily designed for internal health system management. The information used for activity monitoring to MoPF should be a strategic subset of this information.

The first quarterly report to MoPF of the annual activity plan/budget has focused on reporting associated with the TSP (a subset of the activity plan) and not the whole activity plan – at the request of MoPF. In part this appears to have been in recognition of the over-ambitious nature of the original detailed quarterly reporting matrix.

Comment: The mission believes that the MoH should reduce the number of targets and indicators being reported to MoPF - but that limiting this to only those indicators in the TSP matrix is being too restrictive. The MoH should focus targets and monitoring on key service delivery areas. It was intended that the TSP indicators be a subset of the indicators reported on for this purpose.

It is specifically suggested that the MoH review the set of targets and indicators that is being developed as part of the MIS system and distinguishes between: (a) those that individual sections need to monitor as part of their day to day and annual planning cycles; and (b) those that should be reported on a quarterly basis to MoPF. The latter should include at least: (i) those that are currently required to be reported upon on a quarterly basis for overall program monitoring for the TFET projects; and (ii) those required for the TSP.

The MoH has agreed to review the program indicators that it plans to use for FY04 and start reporting on those (inconformity with the above agreed principles) as part of the quarterly reporting process to the MoPF over the remainder of this fiscal year.

- **Increase Training of Midwives:** The training of midwives – important for maternal health – is ongoing and basically on track, albeit with a delayed start and with reduced capacity compared to the original plan. It is agreed that the original target for the training of midwives by end of FY03 was miss-specified and was over ambitious given both the capacity of national health institutions public and private) to release staff for training and the training capacity in MoH. The aim of the program was (and remains to be) to provide in-service training for all midwives in the country – whether in MoH or other health institutions. There are 363 midwives in the country – with 190 in MoH. There is a training capacity of at least 36 per quarter or 144 per year. Experience has shown however, that the system cannot generally release this number each quarter for in-service training. Thus MoH has now proposed to train at least 20 per quarter. By June 2002 135 had been trained. In the September quarter 19 were trained bring the total to 154. Capacity for subsequent quarters will be at least 20 per quarter (but up to 36 per quarter). By December 2002 at least an additional 20 will have completed training – bringing the aggregate trained to at least 174. At least an additional 40 are expected to complete training in the period January to June 2003. Thus the revised total trained by June 2003 will be at least 214 (and not 327 as originally planned and documented in the TSP matrix). The additional 149 to complete the initial round of in-service midwife training will completed in subsequent years. Further in-service training is being conducted and planned for key health service delivery staff.
- **Increase Immunization (DPT3) coverage:** DPT3 coverage of children under 1 year is generally accepted as the best single indicator of overall Immunization coverage. International best practice standards are to reach at least 80% coverage of the target group in order to maximize the effectiveness of investments in immunization. This will take at least 3-4 years to achieve with very focused effort by MoH.

The MoH set an over-ambitious target for DPT 3 for June 2003 of 80% – well in excess of the target agreed for DPT3 under the TFET projects, which set a target of at least 50% in each district (rather than an aggregate national target) – in order to focus district health managers on performance in their district.

DPT3 performance has increase significantly since March 2000 to reach about 51%

in June 2002 (the original baseline of 60% included an error in calculation and should have been 51%). However performance has stalled in FY 03 – a fact commented upon in the last TFET joint donor mission aide memoire. Over the 12 month period to September 02 it is estimated that 53% DPT3 coverage has been achieved – with 6 districts achieving coverage rates significantly below 50% coverage.

- **Health Policy Framework:** The MoH has produced a penultimate draft of the Health Policy Framework, which has been distributed for comment and will be presented to donors as scheduled in December. A principle challenge will be the next step of developing a medium term expenditure plan for health which articulates a specific funded plan for the implementation of the health policy framework – the core elements of which will be district health plans linked to resource availability and focused on the implementation of a core essential health package.
- **Draft FY03 draft legislative program:** The legislative program for FY2003 is coordinated by the Secretary of State for the Council of Ministers and is approved by the Council of Ministers. The program includes a list of 28 Laws and Decree-Laws grouped by each quarter, the date in which the Council of Ministers has that each piece of legislation should be drafted and the drafting status. The drafting effort programmed is enormous and requires careful scheduling. *Comment: Monitoring and programming would be easier if: a) the legislative program was complemented by operational plans identifying the relevant actions, technical assistance, financing and responsibilities; b) terms of reference were prepared for all legislation, using these as the basis for the identification of technical assistance and as a guide to drafters; and c) operational plans included selected legislation which are critical and a precedent to subsequent legislation to be approved.*

EMERGING HEALTH SECTOR ISSUES

- **Refocus on core health package:** The MoH is trying to focus on a range of service delivery issues – with considerable focus on immunization and reproductive health/safe motherhood. The MoH has support from TFET, UNICEF, UNFPA and WHO in this crucial service delivery areas and in particular is focused how to respond to the stalling of the immunization program. Specifically the MoH is planning a review of (i) health seeking behavior (demand side); (ii) access issues which are apparently being compounded by a dispersion of the population to traditional villages from larger towns encouraged during the Indonesian administration – including the effectiveness of mobile clinics and the role of health posts; and (iii) staff motivation and focus on priorities and associated incentive issues.
- **MoH Budget Performance:** Overall health expenditures have been lower than anticipated. In program 1 “Support on going Service Delivery” which includes most national staff salary expenditures and accounts for \$5.8 million of the total

\$7.6 million health budget (76 percent). Expenditure on salaries is only running at 73% of planned expenditure and goods and services 36%. Capital expenditure is zero. Not all planned staff have been recruited – mainly due to the freeze on recruitment. Procurement of goods and services is slow although there is some evidence of some pick-up. It is also known that MoH has had trouble ensuring MoPF pay key medical specialist salaries. *Comment. A range of technical and procedural issues have been identified within MoH associated with procurement capacity under the recurrent budget, management of CPV's and of the "petty cash" systems in districts and hospitals. It is suggested that MoPF and MoH formally review these issues and agree on an action plan to resolve these problems. The solution will probably involve: (a) outplacement of a specific procurement officer to the MoH; (b) additional financial staff; (c) increase mutual understanding of respective roles and needs – particularly for the petty cash system, CPV's and procurement procedures; and (d) increased basic training in procedures. The MoH does not have on-line access to Free Balance (the standard accounting package) which is an operational problem. MoH development of a detailed procurement plan and schedule for works, capital and services (including expatriate specialists) by end June for the subsequent fiscal year would also greatly improve expenditure planning and management.*

- **Staffing Issues:** The staffing freeze has meant that key positions in Health Headquarters – not the least of which is the Director General (head) of health and some service delivery positions – remain vacant. This is a constraint (and ensures expenditures are lower than budgets).
- **Contracting Out:** The MoH has proposed a plan to significantly reduce the number of level 1 and some level 2 staff and contract out: (i) security, (ii) laundry in hospitals; (iii) cleaners; and (iv) catering in hospitals. *Comment: This action deserves support, but as discussed, the MoH will need technical support (procurement and contract management capacity) to effect these conceptually sound proposals.*
- **Hospital Expenditures:** It is agreed that hospital expenditures will remain below 40% of the total health budget. At present they seem to be at about 43% excluding drug expenditures. *Comment. These should be included in the budget for the purpose of the agreed share for hospitals. On the other hand, MoH has made the case that the temporary employment of expatriate specialists pending locally trained staff coming on board somewhat distorts this item of expenditure. While this is true to some extent, the fact remains that expatriate specialists will be needed for quite a few years and there remains a need to focus on rural service delivery such as immunization which, as discussed, is stalled.*

ISSUES FOR THE FY2004 PROGRAM

- **Core Program Performance Indicators for Service Delivery:** The MoH has expressed a desire to review the program targets and indicators (for both activity plans and the TSP) in view of the experience this fiscal year according to the

principles discussed above under the FY03 MoH Action Plan. These would initially focus on the core package of “essential” services and hospitals.

- **Poverty Focus of Health Expenditures:** There is a need to continually review where health expenditures are being made from a poverty perspective. Expenditures on the lowest levels of the rural health system have been shown to be more progressive than urban based hospital expenditures. Efforts should be made in FY04 to specifically monitor district level health expenditures as well as hospital expenditures (which are agreed to be below 40% of the total health budget) as well as expenditures on administration. It is also suggested that chart of accounts be reviewed in the first half FY04 in order to plan a probably needed change in the structure of the health budget and chart of accounts for FY05.
- **Monitoring of Medium Term Pressures on the Recurrent Budget:** The MoH and MoPF need to carefully monitor the medium term recurrent budget implications of policy decisions such as: (i) hospital plans; (ii) implications arising from the portfolio on donor projects (TFET and bilateral); (iii) the reduction of the level of technical assistance to the MoH which will happen over the next 1-2 years as projects wind down which will inevitably result in pressures for increased staff in some areas. Account for pharmaceuticals which are to be funded under TFET by the European Commission (EC) for the next 2-3 years (about \$2 million per annum) will also need to be taken fully into account.
- **Discipline, Oversight and Staff Incentives:** The MoH needs to develop improved oversight, discipline procedures and look at issues of staff incentives – particularly in rural facilities. An appropriate action plan should be developed for FY04.

ANNEXE D: VETERANS ISSUES

MATRIX A4

PROGRAM IMPLEMENTATION ISSUES

- **Working and policy groups on veterans:** The initial TSP action matrix for veterans issues requires considerable revision. Two commissions have been created by the President on September 9, 2002, the CAAC and the CAVFⁱ. The CAAC is responsible for identifying ex-combatants of the period 1975-79. The CAVF is charged with identifying Falintil veterans during the period 1981-99. The government, veterans associations, the armed forces and civil society are represented on the commissions. Office space has been assigned but not yet rehabilitated. Basic equipment has also been provided. The commissions have developed a work plan, drafted terms of reference for all commissioners (at national, district and sub-district levels), and have prepared a budget. USAID and UNDP have committed financial and technical support to the commissions to carry out the planned activities. A substantial financing gap remains. *Comments: In order to enhance organizational effectiveness, a revision of the internal functioning of both commissions would be warranted such that commissioners are assigned responsibility for executing different tasks of the work plan. Moreover, more systematic consultations with donor partners would facilitate the provision of technical and financial assistance to the commissions.*
- **Veterans Affairs Unit:** The Veterans Affairs Unit (VAU) has been established under the Secretariat of State for Labor and Solidarity. An organigram has been prepared, as have terms of reference for the planned posts. However, the VAU is functioning at a minimum level only. One consultant has been hired but no other recruitment has been undertaken because of a hiring freeze. The Secretariat has encountered difficulties in rehabilitating a building due to the limited budget. A Kobi unit has been allocated to the VAU as an interim measure. The MoPF is assisting the Secretariat in releasing some assets donated by UNTAET and purchasing new equipment. *Comment: It is expected that staff will be recruited once the hiring freeze has been lifted. Furthermore, the VAU would require sufficient financial resources to purchase appropriate equipment.*

EMERGING ISSUES

- **Veterans criteria:** A questionnaire has been drafted for registering veterans and ex-combatants. The initial criterion used is anybody who claims having participated in the armed resistance between 1975 and 1999. The working methodology for the commissions for registration and verification is being revised.

ⁱ Comissão para os Assuntos dos Antigos Combatentes (CAAC) and Comissão para os Assuntos dos Veteranos das Falintil (CAVF)

In order to ensure maximum accuracy, data collection and criteria definition should follow two distinct phases. *Comments: Any discussion of veterans criteria should be deferred until the database of veterans and ex-combatants has been finalized. Criteria could be defined after a series of consultations with all stakeholders at the local and national levels. These consultations may involve the Office of the President, members of Parliament and Government, civil society, church organizations, veterans associations, and the population at large.*

- **Policy and institutional framework and medium-term action plans:** There exists a concern that the registration process may be flawed if support measures for veterans were identified beforehand. This could lead to the registration of ‘false’ veterans and extensive (and costly) targeting errors. *Comments: Any discussion of veterans policy and support should be deferred until the database of veterans and ex-combatants has been finalized. This discussion could build on experiences and lessons learned in other countries and duly consider the long-term financial implications of any support measure. It could be undertaken together with consultations on veterans criteria.*
- **Veterans associations:** Since 2000, several associations have been created by and for veterans of Falintil, ex-combatants of the 1975-79 period, and former resistance members. These associations are represented in the two commissions. Objectives differ by association and include the provision of assistance to members and the official recognition of members. Concerns have been raised that associations may be or become politicized. Experience from other countries demonstrates that politicized veterans associations can become engaged in political matters that are far beyond their objective. *Comments: The continued involvement of veterans associations in the process of defining veterans criteria and policy alongside civil society is important. The statutes of associations and/or their membership may need to be reviewed after these criteria have been agreed upon.*
- **Unarmed resistance (*clandestinos*):** The commissions focus on the armed resistance (ex-combatants and Falintil veterans). The unarmed resistance against Indonesian rule inside and outside the country also claims recognition for the efforts rendered for the country’s independence. *Comments: A process similar to the one aimed at identifying the armed resistance could be initiated for the unarmed resistance. If this were the case, it should be understood that the registration of unarmed resistance fighters does not imply the preparation and implementation of targeted assistance programs. Rather, this activity could be undertaken as an effort to provide important clarifications to the country’s history.*
- **Intra-governmental coordination:** With the creation of the two temporary commissions, responsibility of the VAU has shifted from policy and programmatic issues to implementation issues. Implementation arrangements can only be formalized once policy and programmatic decisions have been taken. Whilst the Secretary of State is a member of the CAVF, the VAU does not have any formal coordination links with either commission. *Comments: Coordination between the commissions and the VAU could be strengthened. For instance, the VAU could represent the Secretariat of State for Labor and Solidarity at commission meetings.*

TECHNICAL ASSISTANCE NEEDS

- **Survey management and data collection:** The commissions are in urgent need of technical assistance to help them plan and carry out the registration of veterans and ex-combatants, as well as to process and analyze data and prepare reports. Such assistance has not been identified in the action matrix. *Comments: A survey specialist would need to be recruited as soon as possible. Discussions could be held with interested donors to finance this assignment and identify suitable candidates.*
- **Reintegration programming:** Before a decision is taken on possible support to veterans it is considered necessary to learn from relevant experiences elsewhere regarding veterans policies and reintegration programs for veterans and ex-combatants, whether peace-time or post-conflict. Related technical assistance has been identified in the action matrix. *Comments: Once the database of veterans and ex-combatants has been finalized, experts in veterans policies and reintegration programs could be invited to participate in a lessons learned seminar. This seminar could take place before consultations on veterans policy and assistance commence.*
- **Institutional development:** The VAU will play an important role in providing counseling and referral services to veterans. Although a structure has been identified, the actual setup, including decentralized structures and links to other Government departments, is yet to be worked out. Specialized assistance has not been identified in the action matrix but may be warranted to identify the most appropriate institutional arrangements at the outset. *Comment: The recruitment of an institutional development specialist could be considered to assist the Secretariat of State for Labor and Solidarity in properly structuring and setting up the VAU.*

ISSUES FOR THE FY2004 PROGRAM

- **Conclusion of policy debate:** Transparency around the decision on veterans criteria and policy is considered essential to find broad-based consensus and to bring to closure an important chapter of the country's independence struggle. A series of broad-based, local and national consultations could be carried out after the verification process but before a final decision is made by the authorities on veterans criteria and policy.
- **Policy debate on *clandestinos*:** If a process were launched to identify the unarmed resistance, provisions would need to be made to ensure the proper implementation of this task. The appropriate institutional structure would need to be established as soon as a decision has been taken. A provision would then need to be made in the FY04 budget to finance the registration, verification and consultation process for *clandestinos*.
- **Allocation to VAU:** The actual resource requirements for the VAU for FY04 cannot be determined before veterans policy and assistance have been agreed upon.

This decision is expected to be taken during the first quarter of FY04. In order to enable the VAU to quickly start implementing agreed-upon activities, a tentative allocation could be made in the FY04 budget even before the completion of the policy dialogue on veterans issues.

ANNEXE E: LEGISLATIVE PROGRAM AND PUBLIC SECTOR MANAGEMENT

MATRIX B1, 5-7 & C6

PROGRAM IMPLEMENTATION ISSUES

B-1 Ensure Implementation of annual legislative program

- **Draft FY03 draft legislative program:** The legislative program for FY2003 is coordinated by the Secretary of State for the Council of Ministers and is approved by the Council of Ministers. The program includes a list of 28 Laws and Decree-Laws grouped by each quarter, the date in which the Council of Ministers has that each piece of legislation should be drafted and the drafting status. The drafting effort programmed is enormous and requires careful scheduling. *Comment: Monitoring and programming would be easier if: a) the legislative program was complemented by operational plans identifying the relevant actions, technical assistance, financing and responsibilities; b) terms of reference were prepared for all legislation, using these as the basis for the identification of technical assistance and as a guide to drafters; and c) operational plans included selected legislation which are critical and a precedent to subsequent legislation to be approved.*
- **Legislative process:** The current status and subsequent steps of some existing drafts of legislation require clarification among the stakeholders, even within the government administration. Articulation with the National Parliament regarding drafting process, responsibilities and programming is weak. Without prior definition of policy the purpose and rationale of legislation is difficult to understand and hinders any consultative process. For legislative drafting to be effective it must be viewed as an integral part of the policy process, so that policies precede and provide a framework for legislative drafting. It is recognized, however, that the urgency and consultative requirements differ, consequently some flexibility is needed, ensuring that Government has an option between more prolonged policy and consultative process where needed and streamlined procedures where not. *Comment: The legislative drafting process should be defined at the executive level, allowing for flexibility according to the nature and urgency of the legislation required. The legislative process could evolve to include the following steps: a) preparation and approval of policy documents would provide the starting point of the legislative process, for drafting of the law, decree-law or decree; b) the policy documents would serve as terms of reference for legislative drafters as well as specifying the consultation process to be followed, identifying key stakeholders and the review and approval process for drafts; c) a central government agency, the Secretariat to the Council of Ministers, would have responsibility for coordination, implementation and management of the policy and legislative drafting process; and d) the Ministry of Justice would have a crucial oversight role, verifying the*

legal correctness and coherence of each legislative draft prior to submission to the Council of Ministers and the National Parliament for approvals.

B-5 Create a lean, effective and efficient civil service free of corruption and nepotism

- **Government Organic Decree:** The Organic Decree-Law, approved by the Council of Ministers in August 2002, contains different program structures and staffing profiles than those in the FY2003 Budget. This has implications for staffing expenditure controls and, consequently, may generate pressure on the budget. *Comment: If these inconsistencies are not clarified before the start of the budget process starts, agencies may seek additional funding to fill the proposed administrative structure. To avoid this occurring, the Mission suggests that Government clarify these inconsistencies through a joint memorandum from MoPF and MoIA establishing the relationship between the Organic Decree-Law, Budget staffing profiles and the Budget's program structure.*
- **Civil Service Statute:** The draft Civil Service Statute has been circulated to some Ministries and Offices within the Administration. While the mission understands that the draft will be further refined there is little evidence of input from key areas of the Administration such as Treasury and Budget Office. The Government proposes to prepare a memorandum summarizing policy principles to be submitted to the Council of Ministers with the current legislation. *Comment: While the draft provides broad principles and framework for the management and oversight of the Civil Service Statute, a number of critical policy decisions, with fiscal implications, have yet to be clarified. Some consideration needs to be given to policy decisions underlying the proposed draft, particularly in those areas where there are significant fiscal implications. Furthermore, the draft leaves much of the detailed functions, competencies and procedures of the civil service systems to subsidiary legislation and regulations. In the absence of such supporting regulations it is difficult to assess the extent to which the present draft differs from existing procedures. Until supporting regulations are in place the present draft would be difficult to implement. Among the areas whether further policy and procedural work is needed, the Mission identifies the following:*
 - (a) *The functions and competencies of key institutions, such as the Public Service Commission, the Public Service Unit and line Ministries, particularly with regard to the authorization of all personnel transactions;*
 - (b) *Provisions should be included for contracting personnel as an option to permanent civil servants, particularly in service and professional posts, such as teachers and nurses;*
 - (c) *Basic control procedures such as the nature of personnel records to be retained, the institutional responsibility for such record keeping and the relationship between such records and operational procedures, including the pay roll. The Mission believes that, at this stage, there is a need for a centralized registry of all personnel records;*

- (d) *Reference to subordinate regulations on non-wage conditions of service including all forms of leave, special allowances, overtime, local and international per diems, non-wage benefits such as the provision of government housing and vehicles;*
 - (e) *The structure of the levels and within level grade structure and guidance on the classification of posts. The present draft provides for four levels whereas the administration currently has seven;*
 - (f) *Procedures and competencies for recruitment. Of particular concern is the need to ensure adequate delegation of competencies for lower level grades and specialist staff (currently Levels 1 and 2, teachers, police and defense force personnel), so as to reduce pressure on the central management services, and focus attention on the higher level grades that are critical to the functioning of the administration (the extension of delegation to include L3 and medical practitioners would reduce the number of vacant positions to be recruited through the central recruitment agency to well under 100). In this context, specific procedures will be required to delegate the recruitment process for lower level grades and certain specialist staff, whilst ensuring that the requirement for transparency and accountability through central oversight and record keeping is satisfied;*
 - (g) *Further clarification of the Ethical Code and Disciplinary Regulation referred to in the draft. Proper appeal procedures on both disciplinary and administrative decisions need to be put in place;*
 - (h) *The nature of retirement and disability provision needs to be defined, particularly as regards to whether such arrangements are contributory or not. Further specification can be remitted to specific legislation; and*
 - (i) *Transition provisions to ensure administrative capacity is established prior to implementation – the Statue will require additional resources, a communication strategy and system and process changes to administer appropriately.*
- **Pay Policy:** Government intends to undertake a public sector pay policy study prior to the implementation of the FY2004 budget. *Comment: The Civil Service Statute will have to be enacted and pay policy announced by February 2003 if pay structure provisions are to be implemented in FY2004, so that any changes are reflected in budget documents. At this stage, it may be more realistic to target the implementation of new pay scales for FY2005 or FY2006, while broad provision in forward estimates is made in this years' budget documents. In either case, timely delivery of technical assistance is critical to ensure that the financial implications of the revised pay policy are prepared early on the FY2004 budget process.*

B-6 Provide special status for Oecussi

- **Special status for Oecussi:** Members of the Inter-Ministerial Task Force established to consult with stakeholders and prepare a policy paper on special status for Oecussi have met once informally. The Government proposes to reschedule

deadlines for consultation and preparation of the policy paper to follow the decentralization study. *Comment: Given the likely delay in the formulation of a special status for Oecussi, and in recognition of the particular problems of service delivery encountered in the district, Government might consider undertaking a review of service delivery constraints and possible solutions.*

B-7 Decentralize government and empower communities to manage their local affairs

- **Decentralization study:** The ToR were approved by Government in September. Due to European Union procurement regulations, Ireland Aid is not in a position to launch the decentralization studies by 30 December. Ireland Aid is currently investigating options to ensure the studies are launched before 31 March 2003. A ToR implementation program is needed to identify the sequencing and timetable for completion of key stages of the studies. *Comment: The ToR covers the key issues to be addressed in formulating a decentralization policy and its legal framework. The Mission hopes that the study will generate an outline road map for the decentralization process, indicating the key policy issues to be addressed, together with the consultative and review process. At the same time, it is important that line Ministries assess options for deconcentration and bottom-up governance in service delivery. The implementation of deconcentration initiatives need not be constrained by the timetable for the broader decentralization and local governance reforms.*

C-6 Ensure compliance with expenditure policy and legislation, by strengthening expenditure controls and information systems.

- **Personnel Database:** While the payroll system is sound, significant discrepancies exist between the Public Service Unit's database and staffing registers of contracted staff and the payroll. The system has not been updated and it is unclear whether the centralized registry still holds the records of Government employees. Discrepancies are likely to increase once the recruitment freeze is lifted (see below). Records for teachers, defense forces and the police are supposed to be retained by the agencies. The Mission considers the lack of a centralized personnel database linked to payroll a serious fiduciary risk. *Comment: The Public Service Unit should urgently install the CHRIS system, and define and implement procedures for verifying and updating personnel registers. It is suggested that the an assessment of the current status of personnel records be undertaken as soon as possible. If it is assessed that the backlog is too large to be entered, verified and proper personnel files created, some consideration should be given to contracting out this task until the database has been established.*
- **Temporary employees:** Payroll currently includes around 950 temporary employees (about 10% of the total payroll, excluding police and defense forces). Where the appointment of such temporary personnel by-passes the prescribed procedures and contracts rolled over routinely, this constitutes a serious fiduciary

risk. *Comments: A regulation governing the appointment of temporary staff, the duration of their contracts and recruitment procedures is needed. Distinction may be needed between the appointment of temporary staff to support line functions and the staffing of Ministers' offices. This could be prepared alongside the Civil Service Statute using the same technical assistance.*

EMERGING PUBLIC SECTOR MANAGEMENT ISSUES

- **Public Service Unit and Public Service Commission:** The institutions responsible for Government's personnel management function are overwhelmed. In the Mission's assessment, they are unable to fulfill the basic control and record keeping functions for the staff currently in post, let alone process the recruitment of 2,000 additional staff provided for in the budget. These problems will only be exacerbated with the passage of the Civil Service Statute which will multiply the demands on the institution as the number of personnel transactions increases to include transfers, promotions and termination, as well as servicing appeals and enquiries regarding these procedures. This situation has arisen owing to:
 - (a) **Inadequate staffing.** Of the 27 staff foreseen for the PSU only 17 are currently in place, the Unit has one L6 and two L4 staff in management positions. This is patently inadequate to meet the record keeping, supervision and recruitment processing requirements of the department.
 - (b) **Premature withdrawal of TA.** UNTAET downsizing led to the withdrawal of long-term technical assistance from PSU and PSC, leaving only short-term TA. Provision was made for two posts on the "200" list but these have not been filled.
 - (c) **Inadequate supporting systems and procedures.** Staff are ill-prepared to assume key functions such as record keeping, management and oversight of personnel transactions, staffing profile control procedures, and database administration. Procedures are not always clear, since the regulations have focused on recruitment rather than supporting functions. Supervision is weak.
 - (d) **Lack of personnel management function in line agencies.** Work load on the central personnel management function would be reduced if some of the routine personnel management transactions were administered by agencies, whilst ensuring that centralized record keeping and oversight is guaranteed.

Comments: The Mission considers personnel management of equal, if not greater importance than sound financial management: people are public sector's most valuable resource. Capacity constraints need to be addressed in the short-term, whilst setting in place a capacity building program. The Mission makes the following suggestions:

- (a) *High priority is given to the appointment of dynamic, able national staff to the L4 and L5 posts in PSU and PSC as soon as possible. Staff may have to be*

drafted in from lesser priority areas. Consideration should be given to the provision of additional posts in the FY2004 budget.

- (b) The “200 List” posts in the PSU and PSC are, in the Mission’s view, the highest priority posts in Government and every effort should be made to fill these posts with qualified, experienced human resource management professionals. Given the urgency of the situation, the Government might consider relaxing its language requirements.*
- (c) To reduce pressure on the PSU and PSC and expedite the recruitment process, procedures for recruitment should be reviewed to allow for the delegation of recruitment for L1-L3 posts to agencies (as opposed to L1-L2 at present), whilst allowing PSC oversight and participation in the interview and selection process for all L4-L7 posts, whether these are hired on a temporary or permanent basis. Principles of transparency and accountability must be reflected in a delegated recruitment processes.*
- **Recruitment freeze and Recruitment Procedures:** Since August 2002, Government has instituted a recruitment freeze for permanent posts. This follows from the previous administrations’ recruitment freeze during FY2002. The current recruitment freeze has had paralyzed some institutions, by preventing them from hiring staff critically needed for service delivery and in management posts. MoPF has allowed the appointment of temporary personnel against budget lines for permanent staff on an exceptions basis, as long as staff were hired for up to six months and recruitment followed usual procedures. But this covers just a handful of posts. *Comments: For the Mission, the lifting of the recruitment freeze cannot wait until the Civil Service Statute is finalized. However, once the controls are lifted, recruitment will have to take place quickly but with adequate safeguards to ensure that staff for management posts are properly assessed. From the Mission’s perspective, solutions lie in the emergency capacity building measures identified above, together with delegation of recruitment up to L3.*
- **Contract personnel:** Contract personnel, on fixed term appointments, not included in the civil service offers a flexible alternative that does not tie in Government to long-term commitments and creates a performance incentive. Contract personnel are a particularly attractive option for service delivery and professional grades, rather than for management posts.

TECHNICAL ASSISTANCE ISSUES

- **Public Service Unit and Public Service Commission Capacity:** The premature withdrawal of technical assistance from these departments has undermined their capacity to function effectively. *Comment: Identification of donors to support technical assistance requirements in the Public Service Unit and Public Service Commission should be accorded highest priority.*
- **Translation and Interpretation:** There remain significant gaps in the delivery of translation and interpretation services for Government and Parliament. Translation

and interpretation services are required for four languages (Portuguese, Tetum, English and Bahasa) to reflect both the constitutional requirements and the current working languages of the administration. *Comment: The identification of donors for 200 list translation and interpretation is also critical.*

- **Critical Gaps in Technical Assistance to Government:** There are delays in finalizing recruitment for a number of key 100 stability posts, as well as a significant number of unsupported posts from the 200 development list. This is having a negative impact on achieving some of the Government's priorities in the Action Matrix. Some new priority needs are also emerging. In particular, there remains an insufficient number of competent and motivated international technical assistants that provide value for money services to Government. A review of 100 and 200 lists would be useful to identify any changes in technical assistance priorities that have occurred since the list was developed. *Comment: A review of technical assistance positions and performance assessment procedures under the 100 and 200 lists needs to be conducted to reprioritize and identify emerging technical assistance requirements.*

ISSUES FOR THE FY2004 PROGRAM

- **Change management to improve productivity and capacity building efforts:** While the Mission recognizes the critical role capacity building plays in efforts to improve productivity of the Civil Service, capacity building measures will fail without an effective change management strategy to transform the work culture in the Administration. In particular, the Mission stresses the importance of demonstrating strong and supportive management. The essential element of this type of management is the daily practice of genuine positive reinforcement of employees who achieve good outcomes (no matter how trivial) together with strong but appropriate discipline of inappropriate behavior and under-performance. Moreover, it is important to recognize the consequences on staff morale and productivity from: a) the huge communication difficulties enthusiastic civil servants and adept capacity building staff confront every day; and b) under-performing civil servants and international advisers.
- **Civil Service Management:** Significant resources will be required to ensure effective implementation of the personnel management function across government, particularly once the Civil Service Statute is approved. Implementation of proper systems, supported by capacity building program, is considered a priority for the FY2004 program.
- **Greater focus on Anti-Corruption activities:** The Government has advised of its interest in identification of activities to further strengthen its capacity to prevent and address corruption. The Mission has yet to discuss alternatives with Government, it would likely explore both bottom-up and top-down oversight arrangements as possible approaches.

ANNEXE F: PRIVATE SECTOR DEVELOPMENT

MATRIX B3

PROGRAM IMPLEMENTATION ISSUES

- **Commercial Code:** The draft Commercial Code is an extremely large legal document, covering in excess of 1000 articles. It is currently only available in Portuguese language. Translations into English and Indonesian are currently underway. The draft Code is based largely on overseas models and some amendments to help the draft Code suit circumstances in Timor-Leste have been made. Different parts of the Government have provided varying messages to the mission team about its view of the draft Code, including whether it is suitable for Timor-Leste in its current form. The draft also assumes that a consistent Civil Code is in place. It covers incorporated and unincorporated legal entities, procedures for keeping books of accounts, registration procedures, competitive behavior and collusion, consumer protection, contracts, franchising, leasing, banking, insurance, financial exchange, payments and promissory notes, securities, transfer of shares, company closure and insolvency. Brief review of the draft Code by the TSP mission team suggests that in its current form the Code may be highly unsuited to Timor-Leste in terms of its scope, design and content. Also uncertain is the Code's relevance to existing and planned banking law, the insurance sector, the investment law and the contract law elements of the planned "private rent agreements" under development with the Land and Property Unit. *Comment: The Code seems overwhelmingly large and complex, too cross-cutting, largely unsuitable, and insufficiently consulted. Consistent with the National Development Plan one solution might be to divide the existing draft Code into smaller parts and use those as a basis of reference for several separate laws with priority to be given to definition of incorporated and unincorporated entities, contract law and bankruptcy law.*
- **Investment Law:** The draft investment law has been in various draft forms since 2000. The existing draft is in English. The draft law provides for a Board of Investment, and an Investment Promotion Center to be established within the Secretariat of Tourism, Environment and Investment. The draft law suggests thresholds for FDI that require the prior approval of the Board, and includes a list of restricted, reserved and prohibited investment areas. There are some instances within the reserved and restricted list, for example, on car rental, that will adversely affect reception of the law should they be retained. The draft law refrains from imposing compulsory joint venture requirements. The degree of compatibility with the draft Commercial Code is unclear. There has been some consultation with the domestic business community but it is not clear whether there has been consultation, nor the type of consultation, with the foreign business community. *Comment: In contrast to the draft Commercial Code, the scope and style of this law is helpfully simpler, although its attractiveness to foreign investors in particular remains uncertain given the limited consultation to date. Further, the*

draft investment law has evolved from a “foreign investment law” into an “investment law” apparently to include provisions relating to both domestic and foreign investment. However, the draft law’s design and import tend to set it apart still as a foreign investment law, and it does not seem to dictate any particular arrangements for domestic investors. It is arguable that the threshold for Board of Investment approval of foreign investment has been set too low and will result in excessive amount of discretion being built into the law. In relation to this, it will be important that the Board of Investment is highly transparent and publicly explains its decisions. The mission team will seek to leave separate written advice for the Secretary of State for Tourism, Environment and Investment to help with further draft refinements. As per the revised TSP Action Matrix, the Government will undergo formal public consultations on the draft investment law and underpinning policy before the end of December 2002.

- **Land Law:** The Government has made considerable progress with its draft land law, and supporting policy. The draft land law is now being debated in parliament, and several public parliamentary hearings have been held and submissions sought. Successful passage through parliament will presage conclusion of consequent decree law on land. *Comment: The preparation and progression through parliament of the draft land law seems to have proceeded well and might represent a useful example of approach for other pieces of legislation. The draft law is relatively brief and seeks to tackle a small part of a complex set of issues. The public consultation phase before submission to parliament seems to have been limited, but public hearings have been subsequently held in parliament. Should the law be enacted by parliament in due course then the Land and Property Unit will be on track to carry out public consultations and finalize the first decree-law during the March quarter 2003.*

EMERGING ISSUES

- **Licensing and permits:** The legislative requirements of the draft Commercial Code, and the draft investment law in particular, give rise to questions about the Government’s capacity to issue licenses and permits as set out in the draft laws. *Comment: Additional Government attention needs to be given to the issue of licensing and permits given the impending company and investment legislation. In particular, the Government needs to consider processes and systems for licensing, institutional capacity, regulatory oversight, what requires licensing and how to issue permits without introducing unnecessary restrictions on business or rent-seeking opportunities.*
- **Investment Promotion Center:** The Investment Promotion Center will seek to act as a “one-stop shop”, but to fulfill this legislated task will need far more capacity than is currently available. *Comment: The FY03 budget makes inadequate provision. Should the draft land law be passed in its current form, the Investment Promotion Center will need considerably more staff and resources to perform the “one-stop shop” functions for prospective investors as envisaged.*

- **Industrial Zone:** As part of its national development agenda, the Government decided to investigate the feasibility of an industrial zone. The Secretariat of Trade and Industry has undertaken some initial survey work. However, it is important to ensure that the initial feasibility work is carried out with particular sensitivity to expectations, especially in relation to land issues. *Comment: The Secretariat will benefit from immediate donor assistance to ensure that the budgeted \$90,000 is expended. The first step will be to help with appropriately drafted ToR. The updated Action Matrix seeks preparation of the ToR by the end of the December quarter, contracting by the end of the third quarter, and delivery of a feasibility study by the end of the fourth quarter. A small amount of dedicated donor assistance will help the Secretariat complete preparation of the ToR by the end of December.*
- **PSD Capacity Building:** Consistent with the NDP, there is a need for broader capacity building of economic policy skills of staff of the Ministry of Development and Environment. The program envisaged in Small Enterprises Project II will be a good starting point. *Comment: The establishment of a PSD capacity building register will be a useful and relatively easy task for the Government to undertake. As time passes, and institutional memories fade, a written register will become a helpful guide regarding what PSD capacity building training has been delivered, what gaps remain and future training plans.*
- **Credit Registry:** The BPA has made excellent steps to establish a credit registry. This is an important initiative and would be a useful inclusion in the TSP matrix going forward. *Comment: The mission intends to provide separate, brief comment to the BPA on their credit registry proposal.*
- **Business associations:** The Secretariat of Trade and Industry has been coordinating, pursuant to the National Development Plan, with the various business associations. *Comment: The Secretariat feels that the various business associations are ready to form an umbrella Chamber of Commerce and that timely technical assistance would be very helpful in this regard.*
- **Private rent agreements:** The Land and Property Unit is developing a framework for “private rent agreements”. *Comment: Consultation with private sector businesses on the proposed format and scope of these agreements is important and the Land and Property Unit agreed to the inclusion of this in the TSP Action Matrix.*
- **Price Control:** The issues of price control and national treatment came to the attention of the mission. *Comment: Donor assistance to Government to help prevent capture of Government policy-makers will be crucial to ensure that policy integrity is retained. That is, in relation to price control, the Government needs to be equipped with information and understanding about how to ameliorate concern regarding unreasonably high prices with remedies other than price controls. In relation to national treatment, the Government needs to remain highly conscious of the fact that openness to foreign trade and investment is crucial to its long-term viability and unfair discrimination against foreign businesses will be detrimental to national welfare and perhaps there is a role for donors to help Government with*

information on this. Corruption-free service delivery to business is similarly crucial, as is Government efforts to stamp out corruption wherever and as soon as it may emerge. (There have been some informal complaints about the waterfront.)

- **Other:** The mission did not include in its scope of activities a review of the draft labor or notary codes. *Comment: Both of these pieces of legislation will have strong implications for private sector development. Should resources become available, individual members of the mission team might seek to assist with follow-up comments on these drafts.*

TECHNICAL ASSISTANCE ISSUES

- **Current:** The two relevant secretariats ((a) Trade and Industry, and (b) Tourism, Environment and Investment) that are responsible for a significant portion of economic policy remain largely bereft of technical assistance either from the “100” or “200” positions, or from other sources. USAID provided inputs into the national planning process and recently has been helping with land issues, building on from TFET diagnostic work delivered as part of SEP I. The Land and Property Unit has also obtained technical assistance from elsewhere (Canada with dispute resolution training for staff, and mapping databases from Australia). USAID has also been providing technical assistance via Asia Foundation to help with the consultative process vis-à-vis the Commercial Code (although this has not yet occurred). Capacity building directed toward the civil service on economic policy development is included in TFET’s SEP II.
- **Gaps:** Direct technical assistance in this part of Government is far too low, both in light of the requirements of the TSP commitments, but also especially in relation to the national development agenda. The Secretary of State for Tourism, Environment and Investment has no adviser in any of his three areas of responsibility with the exception of a UNV in Environment. There is one continuing UN technical adviser from China working in the Secretariat of Trade and Industry. This level of internal technical advice is wholly inadequate to support the institutional capacity development of the Ministry of Development and Environment. It should be noted that USAID has agreed to fund (from the “200” positions) an Investment Advisor to the Secretary of State for Tourism, Environment and Investment. AusAID has apparently agreed to fund an adviser on Small and Medium Industries. There is no tourism adviser, although Portugal has committed to fund and recruit a suitable person.

ISSUES FOR CONSIDERATION IN FY 2004

- **Foreign trade policy:** At the working level at least, much confusion surrounds foreign trade policy, its development and direction, and who is bureaucratically responsible for it. In terms of the sequencing of national priorities, it is recommended that the Government begin to turn more of its attention to this issue, perhaps from FY04. The foreign trade arrangements are such that all inward trade to Oecussi from West Timor is conducted by West Timorese traders. The Indonesian military is not permitting Oecussi traders from traveling to West Timor

(Oecussi and Atambua) to buy goods for sale within Oecussi. The trade patterns that have emerged in Oecussi contain important lessons for any future foreign trade regime in the remainder of Timor-Leste. *Comment: Foreign trade policy will, first and foremost, relate to how the Government regulates trade with Indonesia. It will require clarification of involvement with AFTA, WTO and preferential trade arrangements that might benefit Timor-Leste exporters. Two recent diagnostic reports (Asia Foundation and SIDA) set out some of the key parameters and policy options for the Government to consider.*

- **Budget:** The budget for this part of Government (Investment and Office of Trade and Industry) is low (at \$283,000 in FY03 for salary, goods and services and capital (with medium-term allocations flat)). Civil service staffing is adequate in numbers (44 in FY03) and structure although, as noted above, there is an almost complete absence of essential international technical experts within the relevant parts of Government. *Comment: As technical assistance to the Ministry of Development and Environment and the Office of Trade and Industry begin to arrive, there will be self-evident benefit in increasing the budgets (in the range of 20-30%) of this Ministry and Office in line with the large national development agenda.*
- **Government Land:** The import of the draft land law before parliament is that the Government will assume title to a large number of pieces of land and property. The Government will thus become an even larger landlord to private businesses and there will need to be an examination of the appropriateness of this situation with Government policy. *Comment: While Government-private sector rent agreements might produce rental income for Government, this situation should ideally not prevail because it will also continue to cause an adverse crowding out effect on private landlords. The Government, therefore, might want to consider preparing the way to manage this large property portfolio and selling off to portions to private buyers (this will be a useful way to help resume private land transactions).*
- **Business Development Centers:** Various programs (such as planned under SEP I, SEP II, the Microfinance Development Project, and other projects) will be implemented through the BDC network (in Dili, Baucau, Oecussi and Maliana) which has been established under SEP I and SEP II and which will soon become operational. *Comment: The Government should work to ensure that these platforms are exploited to the maximum extent possible for business training, domestic trading linkages, business association meetings, business information dissemination, and business networking at district levels.*
- **Business Statistics:** Working with other departments, the Government needs to improve the capacity of its systems to capture important live data on PSD issues. *Comment: For example, the Government is capturing business registration but not deregistration data. The Secretariat of Tourism, Environment and Investment has recently completed a useful first-round compilation of the value of foreign investment. But additional effort would be valuable in the areas of tourist numbers and destination and tracking of employment generation. Specific requests for assistance from the Border Services Unit in gathering information on tourist arrivals have so far not yielded results.*

ANNEXE G: JUDICIARY AND OMBUDSMAN

MATRIX B2 & 4

PROGRAM IMPLEMENTATION ISSUES

B 2 Administer justice of technical quality independently, with respect for citizenship rights, sensitivity to cultural values and popular participation and involvement.

- **Judicial Magistrates Code:** The judicial magistrates code was approved as scheduled. Effective implementation of the code is fundamental to the building of an independent governing body and system of judicial magistrates, providing for oversight and development of judicial courts. The first step in implementation is to proceed with the establishment of the superior council for magistrates as the highest management and disciplinary body of the system. Government has indicated that it intends to establish the council before the end of 2002 calendar year.
- **Court of Appeals:** The judicial system cannot operate fully if appeals from judicial court sentences cannot be lodged and resolved at a highest-level court. Members of the court of appeal (*tribunal superior de recurso*) could not be appointed until the judicial magistrates code was approved. The existing court of appeal (*tribunal superior de recurso*) is an interim mechanism to resolve on the appeals from the district courts while a building capacity process is undertaken towards the formation of the supreme court of justice, the highest judicial court in the hierarchy of the judicial system, as provided for by the Constitution of the Republic. *Comment: Although Government has indicated that it intends to appoint the court of appeal by the end of the year, some delay may be anticipated given that members will have to be appointed by both the presidency and the executive.*
- **Public Prosecutors and Defenders:** Public prosecutors and defenders are indispensable for court proceedings to take place and sentences to be passed. Proper legislation is required for public prosecutors to operate.

B4 Raise awareness of citizen's rights and respect for law; defend citizens from abuse of power by public administration; and safeguard against corruption and nepotism

- **Organic law on Ombudsman:** The draft legislation on the Ombudsman was prepared through an open consultative process, in which the broad policy principles were presented, discussed and revised before launching into legislative drafting. Organic law is to be submitted to CoM and the National Parliament. *Comment: The legislative process followed in the preparation of the Organic Law could serve as a useful model for other legislative processes in Timor Leste. Operations may be able to start by the end of the March 2003. This will depend on the provision of*

adequate staff and budget, so that complaints can be filed, processed, prioritized and followed up. Owing to the recruitment freeze the staff provided for under the FY2003 budget have yet to be appointed. Additional technical assistance will also be needed, including a senior adviser for human rights and a senior adviser to good governance and corruption. Again, efforts should be made to field staff by end of March 2003, so that operations can begin as soon as the legislation is approved.

EMERGING ISSUES

- **Arbitration, Mediation and Conciliation:** As alternative dispute resolution mechanism arbitration, mediation and conciliation could be addressed as a way to bring resolution of commercial and social conflicts in the wider society closer to the parties. This mechanism can contribute to a higher trust within society in assuring independent arbitration, mediation and conciliation proceedings and awards. The Constitution of the Republic already provides for arbitration courts and this could provide a reliable system side by side with the judicial courts. *Comments: A preliminary analyses for the timely preparation of legislation on alternative dispute resolution mechanisms ought to be initiated during 2003 so that the relevant related documents and legislative drafting is subsequently undertaken and approved some time in 2004.*
- **Capacity Building:** The existing magistrates, public prosecutors and defenders selected two years ago by UNTAET do not yet have the level of qualification required for their present positions and are still classified as on probation. In the past training has tended to be opportunistic, responding to the training courses provided by donors, often with questionable relevance to their work and with periods of absence interfering with the flow of work. The Ministry of Justice is now drafting an extensive training program for judicial magistrates, public prosecutors and defenders as well as support staff. This is likely to provide a more systematic form of training that more directly reflects their needs. Further guidance will be provided from the superior council for judiciary and the highest-level governing bodies for public prosecutors and defenders, which will be established some time after approval of the relevant draft legislation (by June 2003). *Comments: Special attention needs to be given to the training and appointment of the court of appeals as well as general prosecutor and related staff. Given the numbers involved, tailor made training delivered to selected individuals is most likely to be effective for senior grades, while course based training can be used for the majority of public defenders and prosecutors.*
- **Development of instruments for socialization of common legal concepts:** There are serious differences in the communication and understanding of legal concepts and terminology due to a) the various languages in use which are not spoken by all participants in the judicial system. Tetum is the most commonly used language but Tetum is not uniform for those who share it as the main language; and b) the different judicial training backgrounds of legal professionals and related staff. The Government's efforts to address such communication problems should be

acknowledged. *Comments: A basic and meaningful understanding of the laws in place is required for the judicial and public prosecutors and defenders system to operate with effectiveness and justice. To ensure this, a) legislation should be made available to judicial magistrates, public prosecutors and defenders and related staff in the official languages – Tetum and Portuguese – and in Bahasa, which serves as a bridging language to facilitate communication; b) a legal dictionary in such languages should be produced and made available for the relevant public, particularly those referred to above; and c) training material should be available in those same languages.*

- **Oversight:** The establishment of the Superior Council for Magistrates is a very important benchmark because it allows for the management of courts, the exercise of disciplinary powers, the evaluation and the appointment of judges by a governing body independent from political power. This is a prerequisite for bringing normality to the court. With the appointment of two judges needed to allow the functioning of the Court of Appeals, the Superior Council fulfils another important condition: the possibility of review of decisions made by the first instance courts, where judges inexperienced currently enjoy unlimited powers. Close attention must be paid to the establishment of the Court of Appeals giving priority to capacity building and management. Technical assistance is needed to address these specific needs.

ANNEXE H: PUBLIC EXPENDITURE POLICY AND MANAGEMENT

MATRIX C

PROGRAM IMPLEMENTATION ISSUES

C1 Strengthen Capacity in Core Financial Management Functions

- **Capacity Building Strategy:** Draft strategy has been prepared by consultants. *Comment: a) The strategy needs to be reviewed by management and representatives of all MoPF departments and decisions taken on strategic options – eg. proposals for director-general, transparent review of TA performance, definition of localization targets. b) Appointment of TA for Human Resource Management function is recognized as a priority, not least to facilitate development and implementation of the Ministry’s training strategy.*

C2 Monitor economic and social progress

- **Statistics Law:** A statistics law has been drafted. This is needed to ensure access to information from citizens and government departments, particularly in anticipation of the census planned for FY2004, and to ensure access to sensitive customs and tax records.
- **Statistics Strategy:** The Statistics Unit has prepared a rough outline of issues, but this ignores information gathering beyond the core agency. Such a strategy is critical if government is to coordinate work between sectors and deliver necessary information to the planning process. *Comment: Preparation of the strategy has been rescheduled and is high priority for FY2003. The strategy is to be prepared through a consultative process taking into account information availability and the needs of users.*
- **Trade Statistics:** Trade statistics are currently batched for whole of 2002 and consequently are not available for routine monitoring purposes. *Comment: Statistics are to be compiled quarterly until ASYCUDA is online.*

C-3 Implementation of prudent, pro-poor expenditure policy

- **Resource allocations:** Preliminary estimates for the FY2003 budget indicate that allocations will remain within the targets laid out in the TSP Matrix (defense and police spending <20% and education and health >35% of core CFET; primary education >45% of core CFET education spending; and hospitals <40% of core CFET health spending). This is a significant achievement considering the early stages of the budget process in Timor-Leste. However, the Mission notes:

- (a) The continued failure of the Power Authority to meet revenue targets, requiring increased subsidies from the budget. Expenditures to end of October already exceed annual appropriations and forward projections suggest that operating subsidies will increase from \$3.6 million to \$6.1 million. This is not unexpected – the Appraisal Mission pointed out that the budgeted allocations were likely to prove insufficient. The Mission recognizes the Government’s commitment to addressing this drain on the budget, demonstrated through the creation of the inter-ministerial taskforce. However, practical steps for improvement in power sector performance and revenue collection have yet to be taken. *Comment: i) The Mission urges the Government to proceed with the finalization and approval of the proposed Management Contract prepared by ADB. ii) In order to bring expenditure under control, EDTL may consider preparing a revised expenditure plan based on the revised budget and revenue projections. Treasury releases and commitment authorizations would then adhere to the planned draw-down against appropriations, with any short-fall in revenues against agreed plan accommodated by load shedding.*
- (b) Primary education spending has been cut by USD 692,000 (7.5%), but still remains at about 45% of education spending. These cutbacks appear to reflect a reassessment of implementation capacity. *Comment: Primary education remains a priority. Funds have been transferred from this program to secondary education, mostly to cover increased spending on teaching materials, which are covered by TFET spending for primary education.*
- (c) Spending on hospitals is currently running at about 43% of the health budget, excluding drugs. *Comment: The current structure of the health budget makes it difficult to identify and control health spending by level of service. Some consideration should be given to the reformulation of the FY2004 budget.*
- **Medium-Term Expenditure Framework:** Indicative expenditure allocations provide for substantial increases in social spending but appear to underestimate the costs of bringing externally financed programs on-budget, infrastructure maintenance charges and contingencies against poor performance in the power sector. Furthermore, there remains uncertainty as regards the medium-term resource envelope and the structure of financing. *Comment: Forward estimates for FY2004 are to be reviewed through the Public Expenditure Review exercise, prior to setting resource allocations for the FY2004 budget exercise, taking into account alternative resource envelope scenarios.*
 - **Staffing:** Budgeted staffing levels have already reached 16,387, with 649 temporary staff and 579 consultants. (Budgeted levels may actually exceed 16,400 owing to misclassification of some posts). Government has confirmed that it intends to cap staffing at current levels. In this context it is critical to ensure an appropriate balance between staff in central agency and field level functions. *Comments: a) Proposed staffing levels of administrative departments will be reviewed in FY2004 budget with a view to rationalization and outposting of staff. b) In the longer term Ministerial organic statutes should be subject to a functional review process, supported by sectoral strategy papers and expenditure analysis.*

Additional Technical Assistance is required to enable the MoPF and MoIA to guide and implement functional reviews. Assistance will be provided through TA provided by UNDP.

C-4 Ensuring transparency and accountability to legislature in public expenditure management

- **Audit:** Current arrangements for the auditing of financial statements by a contracted auditor are satisfactory. While studies are required to define the appropriate legal and institutional framework for the Tribunal de Contas foreseen in the Constitution, MoPF argues that this is not urgent and proposes the postponement of this activity to FY2004. *Comment: The mission concurs.*

C-5 Improve policy consistency, efficiency and effectiveness in public spending by ensuring discipline, open and consultative budget process

- **Revision of the Budget and Finance Act (Regulation 2001/13):** Terms of Reference have been prepared for the consultant revising Regulation 2001/13. The ToR defines the broad area for review but provide little specific guidance to the consultant on the policy changes to be reflected in legislation. *Comments: The following measures are presented for consideration:*
 - (e) *definition of the supplementary appropriations, distinguishing supplementaries from budget alterations;*
 - (f) *definition of capital project, with provision for multi-year appropriations to ensure that funds are available for the completion of projects;*
 - (g) *definition of public money to include external grant and in-kind financing, with provision for agreements with external partners to take precedence over Act;*
 - (h) *reporting requirement for beneficiary agencies of external financing to report all external financing;*
 - (i) *requirement for all external financing agreements and amendments to be signed by MoPF, to ensure that financing is subject to review;*
 - (j) *fixing key dates in the budget preparation calendar, such as issue of budget circular and submission of agency proposals to ensure that adequate time is allowed for budget preparation;*
 - (k) *provision for the creation of agency budget management committees to ensure engagement of line managers in budget process;*
 - (l) *define exceptional approval procedures for the Budget Law, whereby the parliament and the presidency review the Budget Law simultaneously, thereby adding one month to the budget calendar;*
 - (m) *requirement for the presentation of performance information in budget documentation, thereby establishing a formal link to the planning system;*

- (n) distinguish alterations that are under the authority of parliament, MoPF and line agencies, with provision for limit on number and last date of alterations, to avoid end of year/out of period correction to cover excess appropriations;
- (o) definition of the end-of-year complementary period and the treatment of payments that fall outside this period;
- (p) treatment of assets, transfer, reporting and verification;
- (q) provision for the review of accounts by parliament by a Public Accounts Committee, distinct from the Finance Committee; and
- (r) provision for the creation of autonomous agencies (eg. University) and public enterprises, clarifying the basis for ceding autonomy, basis of transfers and governance structures.

C-6 Ensure compliance with expenditure policy and legislation, by strengthening expenditure controls and information systems.

- **Personnel Database:** While the payroll system is sound, significant discrepancies exist between the Public Service Unit’s database and staffing registers of contracted staff and the payroll. The system is not been updated and it is unclear whether the centralized registry still holds the records of all civil servants. Discrepancies are likely to increase once the recruitment freeze is lifted (see below). Records for teachers, defense forces and the police are supposed to be retained by the agencies. The Mission considers the lack of a centralized personnel registry a serious fiduciary risk. *Comment: MoIA Public Service Department should urgently install the CHRIS system, and define and implement procedures for verifying and updating personnel registers. It is suggested that the an assessment of the current status of personnel records be undertaken as soon as possible. If it is assessed that the backlog is too large to be entered, verified and proper personnel files created, some consideration should be given to contracting out this task until the database has been established.*
- **Asset Management.** The FreeBalance Procurement and Asset Management modules have been installed. However, the inventory has yet to be transferred from Excel to the FreeBalance Asset management module, nor have systems been put in place for routine asset verification. *Comment: a) The asset management information system should be operational before end FY2003. b) The revised Regulation 2001/13 is expected to establish appropriate procedures for asset management, such as establishment of a survey board.*

EMERGING EXPENDITURE MANAGEMENT ISSUES

- **On-line Access to FreeBalance for Agencies:** Effective expenditure control requires timely access to accounting information. In the absence of systematic recording of commitments and payments by agencies, this is best achieved through on-line access to Treasury’s FreeBalance accounting system. Unfortunately, the hardware for linking agencies was removed at Independence and, though hardware has been purchased at a cost of \$700,000, it has yet to be fully installed.

Implementation of the network is the responsibility of the Ministry of Transport and Communications. *Comment: Complete re-installation of the computerized network across government and putting in place of proper structure and staffing for systems administration remains a priority.*

- **Budget execution:** Table 1 demonstrates that execution rates are low, particularly for capital and goods and services. This is largely due to a) agencies' failure to prepare adequate capital plans; b) lack of expenditure and procurement planning for recurrent budget by agencies, leading to delays in raising CPVs (see Table 2); and c) poor understanding of procurement requirements by agencies leading to ill-defined specifications and delays in processing (see below). It is also noted that there is no systematic cash planning by agencies and funds are released (through EANs) on a largely pro-rata basis. *Comments: a) Repetitive training is needed to upgrade skills of agency staff in budget execution and basic procurement, covering all Finance Officers in FY2003, with follow-up "procurement clinics" or similar. b) Donors should front-load delivery of single tranche budgetary support so as to provide coverage for front-loaded EANs.*
- **Virement controls:** The FY2002 budget law has placed tight expenditure controls against line allotments over and above the virement controls (transfer between objects of expenditure) established by Regulation 2001/13. The detailed line item control has been used to assist agencies formulate their budgets and ensure that agencies actually implement the budget that was proposed. Although this has forced agencies to seek MoPF approval for minor changes in expenditure plans, the number of virements is small (around 20), and is likely to decline following the mid-year review. While a priori control of detailed line items is frustrating for agencies, the high levels of execution in "travel & subsistence" and "vehicle operation and maintenance" relative to other line items (see Table 3) indicates that close control over these items is required. *Comment: a) Specification of the line item controls in the annual Budget Law is misplaced: if such controls are required they should be addressed in the revised Regulation 2001/13. b) Some relaxation of virement restrictions for low risk line items may be considered for FY2003, though line items should still be monitored and line item controls applied as sanction where there are excessive charges. c) Budgetary controls should be supported by proper enforcement of regulations covering the use of Government vehicles by TA as well as officials and departmental approval of travel plans.*
- **Procurement Activities:** There are widespread complaints about delays in the procurement process and calls for decentralization of procurement authorization. The Mission finds that these complaints are unfounded. Indeed, the Procurement Unit is remarkably efficient in processing agencies requisitions (see Table 2). The source of delay lies in the incomplete and poorly formulated requisition submitted by agencies, which then have to be clarified by the procurement unit. *Comments: a) Continuous training is required to ensure that agency staff have adequate understanding of procurement procedures and drawing up specifications. b) Current institutional arrangements should remain in place. c) Further work is needed on the standardization of procurement across government.*

- **Procurement Procedures:** Significant improvements have already been made in procurement procedures – end to telephone shopping, reduction in limits for quotations and ICB – but the existing Regulation 2000/10 still requires modification to meet international standards. Work on a revised draft has already begun. *Comment: While provision may be made for the delegation of procurement authority to agencies, this delegation should be consistent with the delegation of commitment authority to agencies. Furthermore, such delegation of authority should only be conceded administratively, following an assessment that demonstrates agencies competence in this area. Premature delegation of procurement / commitment authority would constitute a serious fiduciary risk.*
- **Revenue retention by fully funded agencies:** It has been the practice of some institutions to retain revenues from fees, services and fines rather than surrendering them to the Consolidated Fund as required by Regulation 2001/13. The Mission understands that the University has recently been instructed to follow proper procedures. However, there may still be cases of non-compliance Failure to surrender revenues to the Consolidated Fund constitutes a serious fiduciary risk. *Comments: a) Procedures for the surrender of revenues need to be reviewed, communicated to agencies and receipts monitored, accounted and audited. b) Agency revenue projections presented in the budget documents in FY2004 Budget Paper No. 2 alongside the explanation of expenditure allocations. c) Agency appropriations are treated on a gross basis, though with memorandum item regarding source of funds to ensure that funds release is tied to revenue performance. d) Policy review on revenue retention and appropriate legal/procedural framework considered for FY2004.*
- **Complimentary period:** Some \$4.5 million of accounts payable against the FY2002 Budget remain open. *Comment: a) Efforts should be made to close accounts on a timely basis. b) In the revision of Regulation 2001/13 some consideration may be given to defining the length of the complimentary period and the appropriate treatment of prior years expenditures that fall outside that period.*
- **“Whole of Government Funds”:** The FY2003 Budget Law provided for “Whole of Government Funds” appropriated to MoPF. While these unallocated funds provided much needed flexibility in budget execution, they do undermine transparency and accountability to the legislature. In most countries the need for flexibility is met through virement authorizations, provision for supplementary budgets and limited contingency reserve appropriations (with well specified reporting obligations). *Comment: Provision for “Whole of Government Funds” should be eliminated from the revised FY2003 budget law and explicitly excluded by the revised Regulation 2001/13.*

TECHNICAL ASSISTANCE ISSUES

- **Defining the Capacity Building Strategy:** A proposal for a Capacity Building Strategy has been presented to the Government for review. The strategy should be discussed and the strategy finalized (see C1 above).

- **Ensuring continuity and staffing:** There will be massive changes in TA staffing during the remainder of FY2003 owing to the departure of the current Portuguese and Australian teams from Budget Office and gradual winding-down of UN positions. If delays in the mobilization of replacement technical assistance occur, MoPF will be unable to deliver key outputs such as the Budget. *Comment: MoPF will have to finalize bilateral agreements to ensure that key TA, particularly in budget office, can be fielded in time to assist in the FY2004 budget process.*
- **Evaluation of Technical Assistance:** While most TA is committed, technically competent and making some effort to transfer skills, some are not. This is demotivating for MoPF staff and a waste of resources. *Comment: MoPF and financing partners' evaluation of TA personnel, on the basis of specific outputs that they have generated and their efficacy in transferring skills to counterparts, is critical to ensuring effective capacity building. TA that fails to meet appropriate standards should be terminated.*
- **Training Coordinator:** There is an immediate need for training on specific procedures. This requires the formulation of a training program, training of trainers and implementation of training activities. None of the in-line TA staff have time to undertake these activities. *Comment: A Training Coordinator, with broad experience in financial management, is needed to develop and implement an emergency training program to address budget execution constraints. It is anticipated that the AusAID project will be able to fulfill this function for all Ministry departments.*

ISSUES FOR THE FY2004 PROGRAM

- **Ensuring integrity of the financial management system:** Timor Leste has a model public expenditure management system that functions with a remarkable efficiency. However, budget execution is slow, agencies complain of delays in procurement, and the recruitment system is overwhelmed. Inevitably this creates pressures to delegate and decentralize management of these functions to line agencies. The challenge facing Government is to improve efficiency, primarily by intensive training of line agency personnel in basic budget execution and procurement procedures, and adequately staffing these functions in central agencies. Pressures to delegate the system must be resisted since this will inevitably lead to a loss of budgetary discipline, seriously undermining the Government's program, transparency and accountability.
- **Transparency and consultation in the policy process:** Building on the positive experience of the National Development Plan, and the Government's program for a participatory monitoring structure, there is a need to promote debate on expenditure policy issues. Of particular concern, for instance, are the trade offs between social, infrastructure and other categories of spending, and the implications of the power sector subsidies for the rest of the program. The Public Expenditure Review provides an excellent forum for this kind of debate. The Mission recommends that the PER exercise be undertaken annually, engage Government, civil society and

financing partners in debate, and be linked to the preparation of the FY2004 and subsequent budgets.

- **Improving the program structure of the budget and link to outputs:** The FY2003 budget documents meet the highest international standards. However, further work is still needed in the rationalization of the expenditure programs and the definition of key performance indicators and targets, including selected measures of outcomes. The Mission recommends that TSP preparation supports this process, abstracting key output targets from the budget documents for monitoring during implementation.
- **Supporting service delivery:** The purpose of external budgetary support is to provide financing for service delivery, yet Government faces serious logistical and capacity constraints in delivering services. The FY2004 program should seek to identify and address these constraints in priority sectors: education; health; infrastructure and law and order. Furthermore, there is an urgent need to: a) identify service delivery constraints from the perspective of the client, through surveys and consultations; and b) distinguish and track allocations by level of service and region in budget documentation and analytical reviews.

Table 2: Budget Execution, October 31, 2002.

	As % of Appropriations			As % Pro-Rata Appropriations	
	Releases (EAN)	Commitments & Liquidations	Liquidations	Commitments & Liquidations	Liquidations
Wages & Salaries	50	27	27	82	82
Goods & Services	52	32	15	95	46
Goods & Services (excl. Power)	49	21	13	62	39
Capital	47	8	0	25	1
Total	51	27	18	81	53

Table 3: Procurement Performance, FY03 Budget to October 31, 2002.

	July	August	September	October
Total Requisitions	25	73	96	112
No. Outstanding	2	17	32	57
No. Outstanding <\$15,000	2	5	0	47
% Outstanding <\$15,000	8	7	0	42

Table 4: Execution of FY2003 Goods and Services Allotments, to October 31, 2000.

Goods & Services Allotment Items	% Annual Appropriations		% Pro Rata Appropriations		% Structure	
	Commitments & Liquidations	Liquidations	Commitments & Liquidations	Liquidations	Allotments	Commitments & Liquidations
Travel & Subsistence	31	22	92	67	5	5
Training & Workshops	9	8	26	25	5	1
Utilities	11	7	34	21	6	2
Rental of Property	-	-	-	-	1	-
Vehicle Operation	31	28	94	85	11	10
Office Stationery & Supplies	19	9	58	27	5	3
Operational Materials	28	15	84	44	18	15
Fuel for Generators	103	29	310	86	12	35
Maintenance of Equipment	29	5	87	15	5	5
Other Operational Expenses	7	7	22	20	9	2
Other Misc. Services	30	14	91	42	21	19
Current Transfers					-	2
Total Goods & Services	35	17	104	50	100	100

ANNEXE I: POWER

MATRIX D

PROGRAM IMPLEMENTATION ISSUES

D1 Establish Appropriate Adequately Staffed and Motivated Management Structure for East Timor Electricity (EDTL)

- **Budget Execution:** Cost recovery continues to be poor. Over the last four months, operating costs have averaged \$629,000 per month, while revenues have averaged \$200,000. As a result, EDTL has expended its FY2003 goods and services and capital appropriations by the end of the 4th month of the fiscal year (This was anticipated during the Appraisal Mission, which indicated that budget allocations were probably unrealistic). To supply electricity, the sector will need additional funding in a minimum amount of \$2.5 million. This amount is proposed to be available through a budget reallocation. *Comment: The \$2.5 million is expected to be sufficient for the current level of power supply assuming that the expenditures remain at the current level and the revenues increase by about \$50,000 per month from their current level. The Mission suggests that the \$2.5 million additional budget be made available to the sector on the basis of an expenditure plan, disbursed through monthly payments for the use of the sector. Through staged disbursement of the additional funding from the budget to the sector (EDTL), the Government will be able to prevent over-expenditure and, in turn, renewed need for additional financing later in the financial year. In the meantime, the TSP Mission urges the Government to do its utmost to expediently implement a cost recovery system through the proposed pre-pay meters and the power sector management contract.*
- **Additional Power Generation Capacity:** The Government has secured additional capacity in the amount of 6MW for the Comoro power station from grant sources of the Government of Norway. This additional capacity addresses the need for generating capacity in the short term and provides the opportunity for existing machines to be taken out of service for overdue maintenance. However, the related operational and maintenance costs and un-recovered cost of the additional electricity supply could undermine the financial position of the sector. The Matrix D provides for a moratorium on acquisition of additional capacity until June 2003 when the Management Contract is in place. *Comment: There is considerable risk that increases in capacity prior to the establishment of an adequate cost-recovery mechanism will lead to a deterioration of the sectors' financial position. Careful rationing of funds release, based on an agreed expenditure plan, will be needed to prevent this happening. In the longer term, additional generating capacity will be required to meet supply needs. Once the Management Contract is in place and cost recovery strategies have been shown to be successful it is likely that funding would become available for additional capacity.*

- **Execution of Selected Management Option:** Under TFET, support was provided for the preparation of the tender and contract documentation for the Management Contractor. The draft tender documents were issued to Government on 10 October 2002 for its review and approval. Progress on execution of the tenders for the selected management option, is behind schedule. As a result of the delay, the tender could be expected to conclude on 10 February 2003 and the contractor mobilized on 1 May 2003. The delay will have an adverse impact on the sector financial position which needs to be reviewed. Nevertheless, important progress has been made:
 - a) **Contract Prerequisites.** The Government has identified resources for the prerequisites under the power sector management contract. These include funding for the immediate repairs of the Comoro station including the grant funded additional capacity; and the funding for the prepayment meters in the minimum amount of \$2.5 million.
 - b) **Support to Power Sector Management Contract Tender Processes.** At the Minister of Transport, Communications and Public Works's request ADB will field a consultant to support for the finalization of the tender and contract documents, procurement processes required for the tendering of the and bid evaluation of the Management Contract as well as technical assistance for Independent Monitoring and Certification of the management contractor.
 - c) **Focal Point for Tender for the Power Sector Management Contract.** The Minister of Transport, Communications and Public Works has designated the Secretary of State for Power and Water as focal point to manage the coordination and tender processes for awarding the power sector management contract.

Comment: The TSP Mission urges that immediate attention be given to approving the draft tender documentation for the Management Contractor, including the decision regarding the prepaid meter system. Some consideration should be given to the appointment of a representative from MoPF as secretary servicing the Team, together with representation from the procurement unit. The Team will need to work closely with the ADB specialists in this review process. The Team needs to, with the support of the ADB consultant, i) incorporate comments to the contract; ii) address the issue of prepayment meters; and iii) reallocate the necessary funding for this purpose. Most importantly, the Team needs to ensure a timely commencement of the tender, before the donors meeting on December 9th, 2002.

D-2 Improve Cost Recovery

- **Installation of meters:** The Government has still to sign the meter installation contract with 5 companies that are to install the planned 2,500 meters available in the EDTL stores. *Comment: Some short-term improvement in cost-recovery would be achieved if Government signs and implements the five local meter installation contract for installing the 2,500 meters held by EDTL as originally planned.*

- **Media Campaign:** The media campaign has been largely ineffective and has not produced the desired improvement in collections and on educating the customers on the need to pay their power consumption. *Comment: More efficient and effective action would engage the Government at its highest levels in a dialogue with the civil society on the need to pay for power consumption and the implications in the continuing cost recovery deficiencies.*
- **Billing and Billing Errors:** Under TFET, technical assistance was provided for the development of the Payment Information Management System (PIMS), a billing system for the sector. While the Mission notes that PIMS was proposed originally as an interim system, the system was adopted by UNTAET and Government as a permanent solution. However, it contains several serious software deficiencies. These deficiencies are compounded as a result of serious difficulties with data entry resulting in erroneous billings. Errors in the billing system are a significant problem and require the continuing support of the meter reader specialist funded under the TFET program. Chronic under payment for electricity, is partly due to the inaccurate and malfunctioning meters, inefficient meter reading, continuing meter reading errors, errors in the recording of consumption in PIMS, and current tampering with the meters. An external audit has been completed which highlights the urgent need to address serious deficiencies in accounting records and procedures, largely as a consequence of the defective billing system. *Comment: Given the flaws in the billing system, the Mission considers the proposed introduction of pre-payment meters as part of the tender for the Management Contract to be the most viable mechanism to ensure accurate, reliable and enforceable billing. The Mission also endorses the external auditors' recommendation that Government takes immediate action to activate negotiations with the billing systems contractor to correct the deficiencies with the PIMS system.*
- **Directive on Disconnections:** Disconnection for delinquent payment of electricity bills was approved in May 2002. While disconnections are being applied selectively, the Mission identified some improvement in this area with some 25 (November) disconnections, the majority being commercial customers. The Government has also passed a directive on the need for its agencies to pay for power. This is expected to significantly improve the currently delinquent performance in the Government's payment of its electricity consumption. *Comment: Systematic and assertive application of the two directives would reinforce need to pay for electricity consumption, if supported by an awareness campaign.*
- **Tariff Analysis and District Billing:** While a tariff analysis was prepared in July 2002, the Government has not reviewed the analysis. The Mission concludes that tariff analysis is not urgent and should be undertaken by the Management Contractor, in consultation with Government, once in place. Billing for electricity consumption in the Districts has not advanced at all. It is now an urgent requirement. *Comment: Government approval of the existing tariff structure would give it legal force. Attention needs to be given to setting a uniform tariff for the sub-districts. The Mission suggests that as a stopgap measure prior to installation of meters, the Government establishes an interim standard pay for*

electricity based on an easily understood principle (number of appliances, KW consumption, etc.).

D-3 Establish appropriate institutional structure for an autonomous power authority

- **Sector Legal Framework:** A Basic Law has been prepared together with policy documents and decrees relating to the formation of an autonomous power authority. The Basic Law will be submitted to the Council of Ministers in December 2002 and is proposed to be approved by the end of January 2003. The draft management contract also refers to the formation of an autonomous power authority. Government is also placing emphasis on the development of legislation for the establishment of a sector regulator. *Comment: It is unclear whether the prerequisites for an autonomous power authority are in place: in most countries, the Basic Law would be preceded by framework legislation for public enterprises, defining the institutional, governance and financial structure of these institutions; given the substantial number of unpaid bills, it will prove difficult to prepare a starting balance for an autonomous authority. Because of possible complications of establishing an autonomous power authority during the term of tendering the management contract, the Mission suggests that the enabling legislation be deferred until financial implications have been considered, the contract is in force and relevant discussion can take place under more controlled conditions.*

D-4 Prepare Long Term National Power Development Plan

- **Technical Assistance:** The approved funding of a Power Sector Development Plan provides for the preparation of a long-term national power development plan that aims to reduce the long-term marginal cost of power supply. Tenders have been called and negotiations are scheduled for late November (after having been already deferred once). Government is now considering an alternative proposal from Norway which would cover a part of the terms of reference of the planning study, dealing with hydro-power assessment. *Comment: Close coordination between these consultancies will be needed to avoid duplication of tasks and conflicting recommendations.*

MANAGEMENT CONTRACT ISSUES

- **Pre-pay Meters:** The draft Management Contract is predicated on the inclusion of prepaid meters. In typical conditions, pre-pay meters are used among consumers with high degree of delinquency, where enforcement is problematic. In the case of Dili, the pre-pay meters provide expedient means of improving sector financial conditions. As the investment in the pre-pay meters would be provided under a grant, this option is preferred. While both pre and post-payment systems require physical inspections of the meters, experience shows that administration costs of a conventional meters are higher. Various technical options can be explored for the pre-pay meters as bidders for the management contract are required to provide a technical proposal for the pre-pay meter installation. The contractor is obliged to

procure and install pre-paid meters in agreed quantities prior to assuming financial responsibility of the sector. This process was designed to enable the contractor assume financial risk under the contract that without the pre-pay meters would not be possible. *Comment: Government has indicated that it may wish to offer bidders the option of selecting between prepayment meters and other collection systems, while guaranteeing access to the \$1.9 million funding for the meters if required. Although the contractor will propose alternative arrangements to be implemented beyond the pre-pay meters for revenue collection, particularly in the Districts, the Mission concludes that pre-paid meters should be a key consideration at the commencement of the contract. The alternative of using post-payment meters would translate into a significantly higher cost of the contract owing to the higher costs and risks of payment enforcement. It is recommended that the contractor should be responsible for pre-paid meter installation, so as to be in control of the respective implementation process. A progressive meter installation strategy will have to be designed and agreed between the contractor and the Government, addressing the major consumers prior to those that have only a limited impact of the financial condition of the sector. This process will oblige the contractor to use the most expedient measures of installation. It is critical that the Government conduct effective public information dissemination campaigns on the installation of prepayment meters in accordance with the agreed installation plan to ensure acceptance of the program.*

- **Revenue estimates:** Expectations may be optimistic with regard to the ability of pre-paid meters to increase revenue. The draft contract documents indicate that the targeted installation of meters “will increase the revenue immediately by US\$ 460,000 in the first quarter” (Schedule F – Key Performance Indicators). The Mission concludes that the implied increase of \$153,000 increase in revenues per month as a result of pre-pay meters should be reviewed in the context of updating the cash-flow statement to account for the delay and the increase in capacity. *Comment: While the Key Performance Indicators have been defined for the purposes of the tender, these should be carefully negotiated between the Government and the contractor to ensure that these are realistic and can be complied with.*
- **Cost of the Management Contract:** While subject to the tender and contract negotiations, the management contract is expected to cost \$1.2 million per annum. These funds would be recovered through the user charges. In light of the delay and the additional capacity soon to be installed at the Comoro station, the cash-flow for the sector needs a careful and urgent review to provide the bidders for the contract and Government a clear signal of the future demands of the sector. The Mission notes that the Ministry of Planning and Finance is proposing to reallocate an additional \$2.5 million for the sector for its current fiscal year. Even in light of this, the sector will require a minimum additional subsidy of \$2.5 million. Further, this may be an underestimate if the tender for the management contract is further delayed. *Comment: The cash-flow associated with the sector and the management contract be reviewed prior to commencing the tender for the management contract.*

- **Capacity Building:** Under the conditions of the proposed contract document, the contractor has an inherent advantage to replace expatriate management and operational staff with the nationals of Timor-Leste. In order to accomplish this and concurrently comply with the contracted Key Performance Indicators, the contract will be obliged to provide effective training. The contract, furthermore, includes a requirement that the contractor prepares and implements a coordinated training plan for all areas of managing the sector. It also is required to institutionalize training as a regular function of the sector management.

TECHNICAL ASSISTANCE ISSUES

- **Technical Assistance in Support to the Sector:** There are currently five advisors working in the sector: UNMISSET funded posts are Electrical Engineering Advisor, Mechanical Engineering Advisor and Advisor for Head of EDTL; ADB funded posts are Commercial Advisor and Metering Specialist. The TFET advisors are on contracts which are expected to expire at the end of November 2002. The Government request for short extensions to these TFET posts was provisionally approved by the ADB. *Comments: Maintenance of the staff in these posts is considered critical until the management contract team is installed.*