“Promote good governance through popular participation; a responsible and responsive government including a lean, efficient, effective, accountable and transparent civil service and effective, professional, non-political defence and police forces; a decentralized administration with simple and transparent norms, so that governance and public administration is closer to the people; a socially responsible private sector, transparent and accountable civil society organizations; and a responsible, independent and effective media.” – National Development Plan of Timor-Leste

**Introduction and Executive Summary**

1. Timor-Leste’s National Development Plan (NDP) lays out a vision of a democratic country where state resources are managed efficiently, transparently, and free from corruption, and where the rule of law is respected and office holders are accountable to those by whom they are elected or appointed.

2. **Timor-Leste's achievements are remarkable.** The executive branch of the state, the Government, has been successful in establishing core planning and resource management functions that are effective, transparent, and anchored in the NDP, and compare very favorably with those of other low income countries. The Government has developed solid and transparent arrangements for collecting petroleum revenue, safeguarding the country’s most important resource, and ensuring that sustainable income will be spent only through the budget approved by Parliament. Albeit with varying reach and quality, the Government has also succeeded in providing services in health; education; infrastructure and communications; and agriculture, fisheries, and forestry. These results have been achieved against considerable odds, including a pervasive lack of technical and management skills and lack of familiarity with the institutions needed to run the State.

3. **Four years into the country’s existence, the institutions of the state outside the executive are beginning to play a role, although the executive remains stronger than the Parliament, the Judiciary, the oversight institutions, and the Presidency. Media and civil society organizations also remain comparatively weak.** Despite some progress, much remains to be done to translate the governance architecture set out in the Constitution into well-functioning and fully autonomous institutions. Given the relative strength of the executive, and in order to achieve the checks and balances envisioned in both the Constitution and the National Development Plan, the Government may wish to consider what measures it may take to strengthen other institutions. Such measures may include ensuring that independent institutions have statutory budgets approved by Parliament; maintaining proper channels of communication; respecting the separation of powers; and creating an enabling environment for media, civil society and business. This would build trust and give people confidence that the Government is conducting its business in a fair and honest way. In strengthening governance, the Government may wish to consider using and demonstrating four guiding principles:

- Sending the right signals through leadership and integrity at high levels;
- Relaxing control in order to consolidate it – reassuring citizens by allowing the institutions of scrutiny and accountability to operate independently;
• Strengthening the rule of law and due process, including restrained and appropriate use of the State’s monopoly on coercive power; and

• Reaching out and listening to the population in order to be more responsive to priorities at local level.

4. **In any executive, leadership is critical to the credibility of good governance and anti-corruption efforts.** It sends a signal to the system as a whole that people should follow the standard set by the top, which is particularly important in a context where not all independent constitutional powers are fully effective yet. Timor-Leste’s leadership has declared a strong commitment to stamp out mismanagement and corruption. It is important that this resolve be demonstrated by members of Government who make decisions that are free from conflict of interest and are subject to the same standards of performance, behavior and disciplinary procedures applied to the rest of the administration. The Office of the Inspector General has demonstrated increasing capacity to handle internal investigations, inspections, and audit, and posts summaries of its reports on a public website. Timor-Leste’s Procurement Decree Law contains specific definitions of situations of conflict of interest. Government has shown further leadership in this area in planning an options study on appropriate integrity instruments that could include declarations of income and assets for key state actors. The Petroleum Fund Act already requires all members of the Investment Advisory Board to supply such declarations on taking and on leaving office.

5. **To complete the full constitutional set of checks and balances, it is important to strengthen the independence and capacity of the Parliament, the Judiciary, the oversight institutions, and the Presidency.** While the constitution clearly provides for the separation of powers, in practice power resides mainly in the Executive. The Office of the Provedor de Direitos Humanos e Justica will provide citizens with a constitutional channel for reporting and seeking investigation into alleged abuses. The High Administrative, Tax and Audit Court is the institution that is constitutionally endowed with the function of external auditor. Given that the creation of this court is not feasible in the medium term, the Court of Appeals plans to assume responsibility for the management of the external audit function as a constitutionally legitimate interim measure. All independent institutions will need to be adequately funded, and – reflecting their independence – their budgets would preferably be presented directly to Parliament or otherwise protected from sequestration.

6. **It will be equally important to foster the development of a free and independent press and a strong civil society.** In establishing a new Penal Code for Timor-Leste, Government may wish to avoid criminalization of defamation, and to create a civil defamation law with appropriate penalties. International good practice suggests that regulation of non-governmental organizations and other civil society groups should encourage transparency and accountability, including requirements for information disclosure, appropriate financial management, and prevention of conflict of interest. At the same time, it is important to protect fundamental freedoms, such as the ability to mobilize funding, and independence from government interference, while avoiding unreasonable barriers to registration.
7. Ensuring the rule of law and the appropriate and consistent use of coercive power are cornerstones of good governance. Impartial treatment of all citizens, regardless of party affiliation, is critical. The employment of international legal professionals has significantly improved the functioning of Timor-Leste’s weak justice system, but this can only be an interim measure. All district courts are operational although heavily reliant on the United Nations Office in Timor-Leste (UNOTIL) for logistical assistance. Continuing attention to institutional strengthening and training is urgently needed if these improvements are to be sustained. The independence and capacity of the Office of the Prosecutor General will also need to be strengthened, and the rule of law will be further enhanced through strengthening administrative support functions for the police and army, and by creating effective civilian oversight mechanisms.

8. Timor-Leste's Civil Service Statute, passed in mid 2004, provides an essential framework for the development of the civil service, but it is awaiting the passage of implementing regulations, including those needed to give full effect to the code of conduct and disciplinary code. Supplementary legislation and regulations will be needed to specify fair and correct recruitment and administrative procedures, define the limits on political activity for public employers and employees, clarify institutional arrangements, and lay down guidelines for referral in the case of criminal acts. Once the Organic Law of the Office of the Inspector General (OIG) has been passed, the OIG and the corresponding inspectors in each ministry will be able to take the initiative in investigating administrative malpractice cases, reinforced where possible by management information supplied by internal audit. Prima facie corruption cases could be referred to the Provedor once sufficient capacity is established in that office, and apparent criminal cases would be referred directly to the Prosecutor General. Criminal malpractice and corruption would best come under the Penal Code, which needs to include clear definitions of bribery, trafficking in influence, and other types of corruption, together with the provision of penalties. Ahead of the full implementation of the Civil Service Statute, it would be advisable to establish clear ground rules for administrative sanctions and judicial referral and to apply them consistently to all members of the public administration.

9. Reaching out to various actors, within and beyond Government, is crucial to fostering public support. Information and consultation are the keys to development of confidence in wise government, as demonstrated by the positive response of the media and civil society to the publication of reports and recommendations from the Office of the Inspector General on its website, launched in August 2005 (www.inspeccao geral.gov.tl). More accessible information on the budget and operations of Government will reassure the electorate and assist in the development of constructive debate. Government could publish draft legislation when it is forwarded to Parliament, in order to inform the public and encourage wide discussion. Importantly, the Office of the Provedor has identified the need for surveys on corruption. In the face of rumors of corruption and mismanagement, surveys to establish a baseline for the type and incidence of corruption will be useful in

---

1 UNOTIL replaced the United Nations Mission in Support of East Timor (UNMISET) in May 2005 and is due to withdraw in May 2006.
pinpointing areas of high risk as well as identifying which agencies are trusted and are functioning well and therefore may serve as models from which others may learn. Information from the surveys would be a significant step in quelling rumors and providing a factual basis for changes in policy and practice necessary to tackle corruption. In addition, Government may wish to explore mechanisms for enlisting communities and beneficiaries in monitoring service delivery and, with appropriate safeguards, assuming responsibilities in managing some public resources.

10. **Given the continuing reduction in the numbers of international advisers, it is all the more critical to build credible institutions that Timorese can manage and run.** While capacity remains an obvious and understandable deficit, this paper suggests that good governance does not need to wait for the creation of greater capacity. Good governance relates to strong and credible leadership, adherence to clear rules, and openness in responding to external scrutiny. If core functions of budget and civil service are working well, services will work, and if the State’s monopoly on coercive power is used in a restrained and legal manner, citizens will feel they can trust the State. International experience shows that honest and open regimes can deliver even if they are not technologically sophisticated or filled with highly-skilled people. This finding is encouraging for the future of Timor-Leste.

11. The remainder of this paper discusses the Timor-Leste Framework of Governance, the Decision-Making Process, the Need for a Responsive and Accountable Public Administration, Free of Corruption, the Strengthening of Internal Control, Improving Access to Justice, the Creation of Independent Oversight Mechanisms, and Ensuring Public Access to Information. The four guiding principles set out in paragraph 3 should shape actions in each of these domains of good governance. In each section, the paper provides suggestions for further action.