



**REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE
MINISTÉRIO DA ADMINISTRAÇÃO ESTATAL E
ORDENAMENTO DO TERRITÓRIO**

DECENTRALISATION AND LOCAL GOVERNMENT IN
TIMOR-LESTE

**- POLICY ORIENTATION GUIDELINES
FOR DECENTRALIZATION AND LOCAL
GOVERNMENT IN TIMOR-LESTE -**

March 2008

1. VISION AND OBJECTIVES

1.1. OVERALL VISION

The overall vision underlying this policy orientation guidelines for decentralisation and local government in Timor-Leste is to establish strong, democratic and efficient Municipalities with sufficient human resources and fiscal capacity to be actively involved in, and contribute to, the realisation of the Government of Timor Leste's development objectives. The Municipalities will operate in accordance with robust downward, horizontal and upward accountability mechanisms.

These policy orientation guidelines will provide an orientation to the Government in further analyzing the details of a Local Government Reform and in preparing a law proposal on decentralization and local government and a law proposal of administrative and territorial division.

It is the intent of the Government to finalize these law proposals in 2008 and submit the proposals for consideration to the National Parliament to prepare legislation.

1.2. MAIN OBJECTIVES OF THE REFORM AND PRIORITIES

The main overall *objectives* of the reform are to:

- Promote the institutions of a strong, legitimate and stable state across the territory of Timor-Leste;
- Promote opportunities for local democratic participation by all citizens;
- Promote more effective, efficient and equitable public service delivery for the social and economic development in the country.

The introduction of a single tier of municipal government is a means to achieving these objectives. Existing administrative jurisdictions, i.e. present territorial division, forming the sub-district and district levels will be merged to form new consolidated and efficient administrative units at the District level with representative assemblies, which can deliver appropriate services to local citizens and which will have sufficient capacity to perform their functions. Most sub-districts offices will be kept and transformed into service providing extension units for basic service delivery as part of the new municipal structure with the exception of the District capital sub-district offices of which responsibilities will be managed directly by the municipal office.

Important elements of the reform will be the establishment of democratic representative systems and procedures at the municipal level, streamlining of the administration and strong measures to ensure sound financial management.

1.3. BASIC GUIDING PRINCIPLES FOR THE REFORM

The following basic guiding principles will be applied in the development of the system of local governance and the establishment of Municipalities:

- Consistency with *the provisions of the Constitution*;
- *Democratic representation* and close links between the elected bodies at the Suco level and the municipal assemblies with local interests represented at the municipal level;

- *Accountability and transparency*: Openness in decision-making and management and accountability towards local constituencies;
- *Citizen participation* and active involvement in decision-making, service delivery and monitoring;
- *Efficiency and effectiveness*: The number and size of Municipalities and their capacity will be consistent with the tasks and service delivery responsibilities that they are assigned and enable sufficient economies of scale to be captured;
- Focus on *improved local service delivery* as a means to alleviate poverty;
- *Clear roles and responsibilities* of each tier of government and each stakeholder in the reform process in order to avoid overlap, ambiguity and inadequate accountability;
- *Functional assignments* will be matched with commensurate revenue assignments at the new municipal level and will be cross-sectoral;
- *Balanced development* in the country: The fiscal framework will ensure that the Municipalities can deliver services in an equitable manner;
- *Phasing in* of all reforms in a synchronised manner: The phasing in of reforms will be a guiding principle throughout the implementation arrangements. Municipalities with the strongest capacity will move faster within areas such as assignment of service delivery responsibilities, funding arrangements and personnel management;
- *Building on the lessons of experience*: by leveraging the lessons from the Local Development Programme, which is explicitly designed and implemented with the aim of guiding policy development.

1.4. PURPOSE OF POLICY ORIENTATION GUIDELINES

This Policy Orientation Guideline is being submitted to the Council of Ministers (CoM) in order to serve as the basis for discussion and endorsement. Once the CoM has agreed to the key orientations of this Policy Orientation Guideline, MSATM will commence the process of drafting a set of detailed policy which will form the basis for the law proposals on Administrative and Territorial Division and on Local Government in Timor-Leste. The Law proposals will be approved by the CoM before being submitted to the National Parliament for consideration.

2. THE PROPOSED LOCAL GOVERNMENT POLICY

It is proposed to constitute a single tier of municipal local government, the level, size and population of which will approximately correspond to the present District Administrative division.

The law proposal shall include provision and criteria for the establishment of new municipalities in the future. However, given the present situation of low level of human resources and experience at the local level the District option is preferred for the short- and medium term.

It is intended that the Administrative and Territorial reform will be introduced in all Districts at once, while the Local Government reform process (functions and financing) will be introduced on a phased implementation schedule. This will allow for sufficient technical support from central line ministries to the new units and more flexibility in terms of necessary modification and adaptation in a possible changing environment during the initial phase.

The following sections shall be used as guiding principles for the Government in drafting the law proposals on Administrative and Territorial Division and on Local Government.

2.1. MUNICIPALITIES: THE TERRITORIAL UNITS

2.1.1. Territorial Demarcation of the Municipalities

The guiding principals for territorial demarcation of the new Municipalities will be defined on the basis of the following criteria:

- Using the present Districts as principal point of departure for creation of new Municipal units;
- Ensuring as far as possible within each municipal unit:
 - *The maintenance of ethno-linguistic homogeneity and local cultural identity;*
 - *A balance of development potential and resources;*
 - *An administrative centre, allowing reasonable access to the Municipal Assembly and municipal services;*
 - *A minimum level of population, to allow a minimum level of efficiency in administration and service delivery;*

2.1.2. Categories of Municipalities

The Municipalities will be ordered into Categories to reflect the following Criteria:

- *Overall population size;*
- *Degree of urbanization;*
- *Staff and administrative capacities.*

These factors will determine (i) the range of public infrastructure and services which individual Municipalities can and should deliver, and (ii) the corresponding financing powers and fiscal transfer arrangements.

2.2. THE ORGANISATIONAL STRUCTURE OF MUNICIPALITIES

The Municipal structure will compost of two institutions: The Municipal Assembly and the Municipal Administration.

2.2.1. Representative branch

The Assembly

Each Municipality will be comprised of a Municipal Assembly. The Assembly will be a corporate body with a legal personality to be defined by law.

The Municipal Assemblies will consist of directly or indirectly elected deputies. In the case of direct elections, the district boundaries will be used as the electoral constituency for the municipal election. To avoid an additional electoral process it is recommended that the municipal elections will be held, if feasible, in conjunction with the Suco election. In the case of indirect elections, representation from the Suco Councils shall be taken into consideration.

Municipal Assemblies will be the “legislative” organ of the municipality, with clearly defined powers to approve budgets, adopt (where appropriate) by-laws, and oversee the activities of the municipality as well as service delivery units within their jurisdiction.

Each Municipality will be managed by a Mayor who will be indirectly elected by the Municipal Assembly. The Mayor can be selected from the members of the Assembly or externally of the Assembly as long as the candidate meets some minimum requirement established by the law. The Assembly shall also retain the right to dismiss the Mayor by a vote of no confidence.

Each Municipal Assembly will be chaired by a Speaker who will be indirectly elected by the Municipal Assembly and be selected from among the members of the Assembly. The Assembly shall also retain the right to dismiss the Speaker by a vote of no confidence.

The detailed arrangements for the composition of the municipality, the precise modalities for the election of the municipal mayor, speaker and for the Assembly members, and rates of remuneration will be determined by law through a process of consultation.

2.2.2. The Executive Branch: Municipal Administration and Sector Departments

Each Municipal government will be comprised of its own Administration, under Assembly control, and Sector departments which the Assembly will co-supervise together with the parent Ministries.

Municipal Administration

There will be a Municipal “Executive Secretary” who will be a civil servant (ultimately) employed by the Municipality and accountable to it through the Mayor, to whom s/he will report. The exact size and composition of the Municipal Administration will vary according to the size and category of the Municipality.

The “Executive Secretary” will manage the Municipal Administration, comprising a small staff responsible for the management of essential and basic municipal functions (e.g. planning, finance), and the Municipal sector departments.

The conditions of employment for members of the Municipal Administration and sectoral staff will be determined by law, which will also define how the transition from current staffing arrangements to new arrangements will be managed and phased over time. This will be done through consultations with relevant stakeholders.

Sector Departments

Sector departments and staff will be redeployed to the new Municipalities in accordance with their Category and functions (see further below). Sector department heads and staff will operate under a regime of dual supervision during the first phase of the reform process until such time as management of personnel is devolved to the Municipalities:

- They will be technically supervised by their parent Ministries and report to them through the Municipal Mayor with respect to programmes and activities (e.g.

- referral hospitals, main roads, defence, foreign policy, etc.) which remain central government responsibilities;
- They will report to the Municipal Mayor for programmes and activities which have been decentralised to the Municipality.

In the short term, Sector staff will remain as central government employees. However, the Municipality will have a say (and veto) regarding their (re-) appointment and their annual performance review. The long term objective is that the sector staff will become municipal employees.

Sector ministries at the central government level, will gradually adjust their roles to focus on policy development, issuing guidelines and regulations, setting standards, technical supervision, support and monitoring and will provide support for the capacity development of the Municipalities with respect to their sectoral responsibilities.

Sector functions to be devolved to Municipalities and sector interaction with Municipalities will be analysed and determined by law, following a process of full consultation with Line Ministries.

Municipal Committees

A range of Municipal Standing Committees will be established with the powers to oversee key planning, development, finance and sector service delivery functions. Such Municipal Standing Committees will be composed of members of the Municipal Assemblies. Their functions, competencies and composition will be defined – through a process of consultation – by law.

2.3. FUNCTIONAL ASSIGNMENTS AND ROLES

Decentralisation will bring public services closer to citizens through a gradual transfer of tasks and responsibilities from the central government to the new Municipalities. The phasing in of this will ensure that sufficient capacity is in place at the local level to handle these new assignments professionally and efficiently. Municipalities will be empowered to undertake the newly decentralised functions. The ultimate goal will be that municipalities handle service delivery functions (such as civil registration, primary health, primary education and water and sanitation, local roads, etc.) that are closest to local citizens so as to ensure robust downward accountability, local participation and allocative efficiency.

The specific functions to be devolved to Municipalities will be defined through a process of consultation with Line Ministries and then stipulated in the draft organic Law on Local Government, with flexibility for adjustment in related and subsequent legal instruments.

2.4. THE RELATIONS BETWEEN CENTRAL GOVERNMENT & MUNICIPALITIES

The functioning of the Municipalities will be regulated by national legislation and by decrees and instructions to be issued by relevant Ministries.

The relationship between central and local government will be based on mutual trust, recognition and close interaction. Municipalities will be given significant autonomy to

perform their new functions within the legal framework. The reform will imply changes in the roles of many stakeholders.

2.4.1. Role of the Ministry of State Administration and Territorial Management (MSATM)

The role of MSATM will necessarily change with the assignment of important service delivery functions to the municipalities.

MSATM will be involved, in cooperation with the Ministry of Finance and relevant planning departments in various ministries, in the coordination of the municipal finance system, including the design, calculation and management of the grants to be transferred to the municipalities, the definition of municipal revenue assignments and fiscal supervision.

More specifically the role of MSATM will be to:

- *Monitor compliance of the Municipalities with the law and the regulatory framework;*
- *Monitor the financial management of the Municipalities;*
- *Take administrative and/or legal action where Municipalities are not in compliance or otherwise contravene national policy;*
- *Provide and/or arrange general support, training and advice to the Municipalities to facilitate implementation of their mandates, duties, and national policies;*
- *Support the Assemblies in the management of Municipal Administration personnel;*
- *Coordinate with MF and other central departments in the design and management of a fiscal decentralization framework;*
- *Liaise with other Ministerial departments on behalf of Municipalities;*
- *In general, ensure the development of an overall national policy, legal and regulatory framework which is supportive of decentralisation and effective and democratic local government.*

2.4.2. Role of the Ministry of Finance (MF)

A number of new roles and responsibilities will need to be taken on by MF, including (among others) the allocation of grants to the municipalities, making adjustments to planning, budgeting and accounting systems to support the new systems and procedures, and monitoring municipal financial management. These new or adapted functions of MF will be determined by law after close consultation with stakeholders.

2.4.3. Special Areas

In accordance with the provisions of the Constitution, special arrangements will apply to local government and socio-economic development in Oecusse and for economic and social development in Atauro. Suitable and specific local governance arrangements will be provided for by law.

2.5. THE RELATIONS BETWEEN MUNICIPALITIES AND THE SUCOS

The Municipalities shall establish a close link with the Suco Authorities. The Municipal Administration shall coordinate with the Suco Authorities on administrative aspects, in addition to allocated and oversee execution of Suco funds.

The Municipal Assembly shall ensure close coordination on planning and execution of municipal budgets with the Suco Authorities. The Assembly shall also ensure that prior to decisions with direct implications for the Sucos, the Suco Authorities are consulted.

To facilitate such coordination and involvement of the Suco authorities, special (Sub-District) Area Standing Committees with Suco representatives can be established as part of the committee structures under the Assembly.

2.6. FINANCING MUNICIPALITIES: PRINCIPLES AND ISSUES

Funding arrangements for Municipalities and the division of revenue assignments across the tiers of government will correspond to the new division of functions between central government and the municipalities. New functions with financial implications for municipal budgets will be funded either through grants and/or new revenue assignments (such as taxes, user fees and charges, etc.) in a fair, equitable and transparent manner. However, it is clear that in the short and medium terms, Municipalities will largely rely on fiscal transfers from central government.

MSATM, in close collaboration with MF, will lead the process of reflecting on appropriate revenue assignments and revenue collection arrangements for Municipalities, as well as for developing an appropriate framework for inter-governmental fiscal transfers. In addition, suitably robust public financial management procedures (e.g. accounting, reporting, auditing) will be developed for local government. These will be foreseen in the organic Law on Local Government, but detailed in other legal instruments.

2.7. COSTING ISSUES

The direct capital and recurrent cost implications of establishing of Municipalities and Municipal Assemblies and Administrations (construction of buildings, operations and maintenance, salaries, allowances, travel costs, etc.) will be estimated in consultation with relevant stakeholders. These estimates will be submitted to the CoM for consideration and approval, before being integrated into any budgetary submissions made to the National Assembly.

3. DECENTRALIZATION STRATEGIC FRAMEWORK

The Decentralization Strategic Framework (DSF), attached to this policy, has the objective of orienting and informing the Government and other interested key stakeholders about the commitments in addition to the detailed and complex activities planned to prepare the legislation and implementation of the approved policy by CoM in regards to Decentralization and Local Government.

4. THE WAY FORWARD

Once this Policy Proposal has been discussed and endorsed by the CoM, MSATM has the mandate to establish necessary arrangements for driving, managing and implementing the policy agenda. This will include:

- Designating key officials to oversee and manage policy formulation and implementation;
- Revise the existing Decentralisation Road Map, which will spell out the activities that will need to be undertaken (as well as milestones for the completion of those activities) in order to formulate a comprehensive and detailed policy framework for local government that is consistent with this Policy Orientation Guideline;
- Carrying out consultations and analytical work (as specified in the Road Map) aimed at clarifying a range of issues (e.g. territorial definition of Municipalities, electoral processes, staffing, functional assignments, etc.) and defining optimal institutional arrangements. This will result in a series of proposals, which will be integrated into appropriate legal instruments;
- In coordinating with the key service providing ministries establish Ministerial Technical Working Groups to advice on decentralization of functional assignment, recommended form of decentralization of various functions, personnel issues, budget implications, timetable for decentralization of functions for each Ministry, in addition to other relevant aspects of the reform. The work of the TWGs shall be coordinated by MSATM. The following Ministries shall establish TWG:
 - o Ministry of State Administration and Territorial Management,
 - o Ministry of Finance
 - o Ministry of Justice
 - o Ministry of Health
 - o Ministry of Education
 - o Ministry of Economy and Development
 - o Ministry of Social Solidarity
 - o Ministry of Infrastructure
 - o Ministry of Tourism, Commerce & Industry
 - o Ministry of Agriculture and Fishery
- Submitting policy proposals to the CoM for endorsement, before formally enshrining them in appropriate legal instruments (e.g. an organic Law on Administrative and Territorial Division and an organic Law on Local Government, in addition to other legal instruments pursuant to and consistent with the organic Law on Local Government) for submission to the National Parliament;
- In accordance with policy, defining the phasing by which Municipalities will be established;
- Assigning and/or accessing any special budgetary resources necessary for covering the costs of the policy formulation and implementation process.



REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

TIMOR-LESTE

DECENTRALIZATION STRATEGIC FRAMEWORK

“What needs to be done & how do we get there”?

PART 1

Prepared by Ministry of State Administration and Territorial Management
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BACKGROUND SUMMARY

The Government has since 2003 been working on a framework for decentralization and local government for Timor-Leste based on the clear provisions for this in the Constitution. The overall vision of the Government for decentralization is to establish a strong, democratic and efficient local government with sufficient human and financial resources to be viable institutions for local governance, and to contribute to the realization of the Government of Timor-Leste's development objectives.

An Inter-Ministerial Technical Working Group was established in 2003 and has since then been working on analyzing and developing options for a future reform. The first report of the Working Group – the Local Government Options Study – outlined several possible options for a local government system in Timor-Leste, and their respective advantages and disadvantages. Based on this, the Government has decided to establish a single municipal tier between the present Sub-District and District level. This tier will gradually replace these two levels of administration. Additional research related to a new administrative structures, representation and functions of local government has been ongoing since 2004. This preparatory work has provided the Government with important input to its decision-making process on a policy for decentralization and the structure of local government. The new Municipal bodies to be introduced will comprise a Legislature and an Executive, and will have clearly defined functions and human and financial resources.

As a parallel strategy, the Government began in 2004 to pilot a range of procedures and institutional arrangements providing a “real-time” simulation of local government – this was done through the Local Development Programme (LDP). The objectives were to provide the Government with practical lessons and policy input. So far 28 Local Assemblies have been established in eight pilot districts; Bobonaro, Lautem, Manatuto, Aileu, Ainaro, Manufahi, Baucau and Covalima. The assemblies consist of around 750 members including both government officials and members of the Suco Councils. Capacity building has been provided to all the members in a various areas to ensure that they could assume their new functions and responsibilities. A Local Development Fund has been provided to each assembly and the result shows that there is capacity at the local level to make good decisions based on identification of local needs and in line with the National Development Plan.

Although the amounts provided through the LDP pilot are modest they are still quite substantial when compared to funds which are decentralized through normal government channels. They have visibly empowered the local communities to participate in government decision-making processes, to take their own initiatives and to assume responsibility for development in their areas. The positive lessons learned have also been crucial for the Government to reach its recent decision on a decentralization and local government policy for Timor-Leste.

The former Government approved a policy paper on Decentralization and Local Government in October 2006 with an intention of establishing a new municipal government level between the present Sub-Districts and Districts. The indicative number of new municipalities was between 30-35 new municipal units. This would entail a large re-organization of the territorial division of Timor-Leste and is substantial consequences for the whole territory.

The Decentralization Secretariat, based in the Ministry of State Administration (MSA), was tasked with a national consultation process ensuring input from the overall population on the new proposed territorial and administrative units. The consultation process was conducted during the period of January to May 2007. A total of 78 meetings were held at the District and Sub-District level and more than 6,000 people from the local administration, sector staff, Suco Council member, in addition to other interested parties were consulted.

The consultation concluded that although there were genuine support for decentralization and the proposed new units in most areas, the issues of location of the new administrative centers and name of the new municipalities were highly contentious and could lead to possible conflict at the local level. However, before any final decisions were made Timor-Leste held national elections and there was a change in Government.

The new Government adopted a new policy orientation guideline on Decentralization and Local Government and this proposed Decentralization Strategic Framework (DSF) is meant to guide the Government and other key stakeholders through the complex sequence of activities to further develop the policy and legal framework. The Government is aiming at submitting the law proposals related to the establishment of local government to the National Parliament for consideration in September 2008 with the view of commencing the reform in 2009.¹

OBJECTIVES AND GUIDING PRINCIPLES OF THE POLICY:

The Decentralization and Local Government policy paper presently being considered by CoM provides the objectives and guiding principles for the reform. This Decentralization Strategic Framework (DSF) is based on and should therefore be used in conjunction with the adopted Decentralization and Local Government Policy orientation guideline.

The main overall **objectives** of the reform are to:

- Promote the institutions of a strong, legitimate and stable state across the territory of Timor-Leste;
- Promote opportunities for local democratic participation by all citizens;
- Promote more effective, efficient and equitable public service delivery for the social and economic development in the country.

The introduction of a new tier of municipal government is a means to achieving these objectives. Existing administrative jurisdictions at the sub-district and district levels will be merged to form new consolidated and efficient administrative units with representative assemblies at the present District level, which can deliver appropriate services to local citizens and which will have sufficient capacity to perform their functions. Important elements of the reform will be the establishment of democratic representative systems and procedures at the municipal level, streamlining of the administration and strong measures to ensure sound financial management.

The following basic **guiding principles** will be applied in the development of the system of local governance and the establishment of Municipalities:

¹ The DSF timeline is to be found in Annex 1 of this document.

- Consistency with ***the provisions of the Constitution***;
- ***Democratic representation*** and direct election to the municipal assemblies with local interests represented at the municipal level;
- ***Accountability and transparency***: Openness in decision-making and management and accountability towards local constituencies;
- ***Citizen participation*** and active involvement in decision-making, service delivery and monitoring;
- ***Efficiency and effectiveness***: The number and size of Municipalities and their capacity will be consistent with the tasks and service delivery responsibilities that they are assigned and enable sufficient economies of scale to be captured;
- Focus on ***improved local service delivery*** as a means to alleviate poverty;
- ***Clear roles and responsibilities*** of each tier of government and each stakeholder in the reform process in order to avoid overlap, ambiguity and inadequate accountability;
- ***Functional assignments*** will be matched with commensurate revenue assignments at the new municipal level and will be cross-sectoral;
- ***Balanced development*** in the country: The fiscal framework will ensure that the Municipalities can deliver services in an equitable manner;
- ***Phasing in*** of all reforms in a synchronised manner: The phasing in of reforms will be a guiding principle.
- ***Building on the lessons of experience***: by leveraging the lessons from the Local Development Programme, which is explicitly designed and implemented with the aim of guiding policy development.

WHAT NEEDS TO BE DONE?

With the approval of the Decentralization and Local Government Policy orientation guidelines the Government can now move into the second phase of the decentralization process, i.e. consultations and drafting of law proposals. To facilitate this process MSATM has prepared a Decentralization Strategic Framework (DSF) to ensure that all key stakeholders in this process has a clear picture of ***“What needs to be done”*** and ***“How do we get there”***.

This first DSF Part 1 is prepared to guide the Government through the various steps in regard to consultation and drafting of LG law proposal. A DSF Part 2 will be prepared mid-2008 which will deal with important aspects in regard to implementation strategy of the reform, capacity building framework and related activities. However, detailed planning for these components will only become clear when agreement has been reached on very basic issues such as size of municipal units, functions and responsibilities of the municipalities, staffing and similar issues.

The first part of this document will therefore outline the proposed legal framework/hierarchy, i.e. ***“What needs to be done”*** while the second part outlines a strategy for ***“How do we get there”***.

1. LEGAL FRAMEWORK/HIERARCHY

It is suggested that there will be two main laws which will be the main legal framework for the establishment of Municipalities in Timor-Leste.

- 1) The Law on Administrative & Territorial Division
- 2) The Law on Local Government

In accordance with the Constitution these two main legal instruments will need to be approved by the National Parliament.

Likely content of laws and Decrees/Regulations:

1.1 THE LAW ON ADMINISTRATIVE & TERRITORIAL DIVISION

- Criteria and main principles for demarcation of LG Units
 - Income
 - Population (Recommended min/max level of population per municipality)
 - Land area
- How to establish and approve new Municipal units;
- How names can change and who approves names of Municipalities
- Local Governments centers
- Definitions of Cities
- List of Municipalities
- Special cases
 - Oecusse
 - Atauro
- Provision for future adjustments

- Other to be defined

1.1.1 **Subsidiary legislation/regulations**

- To be defined

1.2 **THE LAW ON LOCAL GOVERNMENT**

- Purpose of local government
- Structure and definition of local government
 - single tier = municipality
 - classification of municipalities (urban/rural)
 - procedures for establishing municipalities
 - inter-municipal arrangements
 - Other to be defined
- Legislature arrangements – assemblies:
 - numbers of councilors
 - direct or indirect election of councilors
 - mayor (and deputy mayor)
 - speaker of the municipal assembly
 - indirect election of mayor (and temporary provision for the first phase)
 - Standing committees
 - decision-making processes and procedures
 - remuneration (principle, not amount)
 - Other to be defined
- Executive arrangements and administrative units
 - Municipal Director General/Executive Secreatry (appointment, responsibilities, accountabilities)
 - Municipal staff
 - Other to be defined
- Functions of local government
 - define core mandatory functions
 - define voluntary functions
 - by-laws
 - Other to be defined
- Local Government Finances
 - General principles and provisions (funding follows functions etc.)
 - Administrative structures in LG finance
 - LG budgeting power and principles
 - LG revenues:
 - Own source revenues – broad outline of the various types of local revenues
 - Grants – principles and types of grants
 - Rules on borrowing (not to be allowed)
 - Financial management (in brief, as the details will be in regulations .. planning, budgeting, budget executing, control and audit)
- Role of central government
 - MSATM responsibilities and oversight
 - Regions and Secretaries of State
 - Line Ministries

- Local Government Commission? [FUNCTION; a permanent commission with the function of reviewing LG arrangements, fiscal issues and suggesting changes as and when necessary in the legal framework – composition of the LGC: Representatives from the core MSATMs, MF and the Municipalities.
- Special cases
 - Oecusse
 - Atauro
- Provision for legally recognised Association of Municipalities [recommendation is one association for the whole country]
- Provision for future adjustments [possible clause that revision will take place within 3-5 years]

1.2.1 Subsidiary legislation/regulations

- Remuneration rates for mayors and assembly members
- Civil Service/Disciplinary actions/recruitment
- Electoral legislation
- Administrative procedures
- Functioning of and procedures for work in the assemblies (LA Standing orders)
- Planning and budgeting regulations and guidelines
- Financial management regulations (accounting, budget control, internal audit etc.)
- Regulations on LG own source revenues (maybe various for various types of taxes)
- Regulations on intergovernmental fiscal transfers
- Procurement regulations
- Audit (Number s 2 and 6 may be joined)
- [Other to be defined]

1.3 HARMONIZATION OF CURRENT LEGISLATION:

- Review of current legislation and adjust in accordance with the new LG legislative framework.

HOW DO WE GET THERE?

The aim of the Government is to commence the Local Government reform in 2009. This means that all laws and regulations will need to be drafted and approved before the end of 2008. It is acknowledged that this is a very short timeframe to complete all the various components of the reform, however, it is also seen as a priority to start the decentralization process. It is therefore of great importance that all parties agree on the scheduled activities and delegated responsibilities outlined in this DSF. Although it is recognized that MSATM will take a lead role in implementing the DSF, the success will highly depend on all key stakeholders and delays will be the result if we fail to follow the outlined schedule. To ensure clarity in the tasks ahead this DSF is recommending the establishment of Technical Working Groups which all have a clear mandate and responsibilities as provided for in the approved policy.

2. THE ROLE OF MINISTRY OF STATE ADMINISTRATION AND TERRITORIAL MANAGEMENT (MSATM)

To ensure that there is an overall coordination of activities and that the DSF is followed and implemented the policy paper provided a mandate to MSATM will take the lead role in coordinating and leading the reform process. This leadership will be exercised by the Minister through the national directors, technical advisors on local government and other staff as defined by the Ministry. The national directors involved will report to the Council of Directors which is chaired by the Minister of MSATM. The mandate of MSATM is defined in the Secretariat TOR in annex 2.

Key Responsibilities:

- Oversee and coordinate all consultation and drafting of the LG legal framework (including all law proposals and subsidiary legislation) in accordance with the timeline established in the DSF;
- Oversee and coordinate Technical Assistance in support the implementation of DSF;
- Plan and execute national and community hearings/consultation on various aspects of the laws during the drafting process;
- Coordination and liaison with the various Ministerial Technical Working Groups;
- Lead the consultation and drafting of the new Territorial Boundaries;
- Review and define the new role of the Ministry of State Administration and Territorial Management, staffing/budget in accordance with new division of functional responsibility;
- Prepare and establish a Capacity Building Programme for Municipality level staff;
- To manage the pilot activities (Ex-LDP) and to ensure that lessons learned from the pilot activities inform the decentralization and local government policy formulation and implementation;
- Plan, oversee and assist in implementation of LG reform [To be defined in DSF 2].

3. DSF KEY STAKEHOLDERS AND CONSULTATION STRATEGY

Although MSATM will take the lead role in ensuring that the principles in the approved Decentralization and Local Government Policy is converted into law proposals and regulations it is not the intention of the Ministry to do so without the involvement of other key stakeholders and consultations at both national and sub-national levels. Considering that there are two main outputs from the DSF, the DSF strategy is build around these three/two outputs and the recommendations of activities are outlined below.

3.1 LAW ON ADMINISTRATIVE & TERRITORIAL DIVISION

Section 71, article 4 in the Constitutions states that; *“The political and administrative organization of the territory of RDTL shall be defined by law”*. This is yet to be defined and is therefore seen to be a precondition to the establishment of new Municipalities. The Decentralization and Local Government Policy states that there will a single tier of municipal local government which will correspond to the present District Administrative level.

The territorial demarcation of the new Municipalities will be defined on the basis of the following criteria:

- Using the present Districts as principal point of departure for creation of new Municipal units;
- Ensuring as far as possible within each municipal unit:
 - *The maintenance of ethno-linguistic homogeneity and local cultural identity;*
 - *A balance of development potential and resources;*
 - *An administrative centre, allowing reasonable access to the Municipal Assembly and municipal services;*
 - *A minimum level of population, to allow a minimum level of efficiency in administration and service delivery;*

Considerable work has already been done in this area by the Inter-Ministerial Technical Working Group during the preparations of the Policy paper and by the former Government. All available information will be used to establish the new principles for the territorial and administrative division in Timor-Leste in addition to:

Step 1: Preparation of legislative proposal on Territorial & Administrative division

- Based on existing information and international good practices establish a legislative proposal (detailed policy) on Territorial & Administrative division;
- Submission to CoM for discussion and endorsement of key principles by **August 2008**

Step 2: National-wide Consultation

- Consultations in all Districts
- Identification of problem areas and possible second visits to these areas;
- National hearing of the draft report [To be decided if we should open for a 2 weeks national hearing here or in Step 4 on the law itself only or both];
- Preparations of draft report.

Step 3: Legal drafting of Law proposal on Territorial Boundaries

- Legal drafting of the new Law on Territorial Boundaries based on the endorsed framework of Territorial Map and key principles as stated in the report from the consultation;
- Submission to CoM for discussion and approval by **August 2008**

Step 4: Submission to the National Parliament for approval

- Submission to NP by **September 2008**

Step 5: Submission to the President for promulgation

It is recommended that the responsibility of a national consultation and the preparation of a legislative proposal continue to be the responsibility of MSATM.

3.2 LAW ON LOCAL GOVERNMENT

The guiding principles of the Law on Local Government has partially been identified in the approved Decentralization and Local Government Policy, however the detailed definitions are yet to be defined. Although drafting of certain sections of this law can commence immediately it is recommended that this process is done parallel with the drafting of the Law on Administrative & Territorial Division since size and functions is very much connected.

However, there are certain sections of this law that is assumed to require more technical consultation and review than others. In particular this refers to the questions related to functional assignments or in other words the review and identification of service delivery tasks to be transferred to the new municipalities.

Based on this evaluation of the work needed it is recommended that two main activities are initiated bearing in mind that the output of these activities will be one law.

3.2.1 ESTABLISHMENT OF MINISTERIAL TECHNICAL WORKING GROUPS

To ensure technical quality and ownership of the process the policy on decentralization of local government recommended that Ministerial Working Groups are established to take a lead role in reviewing and make recommendations for transfer of tasks, HR needs and re-location, costing, phasing, etc. The Ministerial Technical Working Groups will be transitional groups with a time-bound and clearly defined mandate. Each Ministry shall appoint a senior staff member as the focal point which will lead the work of their internal Ministerial TWG and liaison with the mandated unit in MSATM. It is the responsibility of each Ministry to appoint members of their internal Ministerial TWG. The mandate of the TWGs is defined in TWG TOR in annex 3.

Responsibilities:

- Prepare Ministerial Technical Working Group reports as established in the DSF which will include: [Likely content]:
 - Review of the existing organization of functions and service delivery, which are performed at the local levels,
 - Review and Identification of tasks to be transferred to new municipal units;
 - Staffing needs, structure and redeployment in accordance with transfer of tasks;
 - Review of the existing budgets available for the functions,
 - Costing and budgets of local delivery of devolved functions and responsibilities;
 - Phasing of transfer of tasks to the new municipalities (first batch municipalities)
 - Phasing of transfer of tasks to the new municipalities (second and third] batch municipalities)
 - Long term view on future transfer of tasks [second phase of tasks to be transferred]
 - Define the new role of each Central Ministry, staffing/budget in accordance with new division of functional responsibility;
 - Define the role of the Region [only if they already using the regional level or have plans to do so]
 - Identify and define any capacity building needs for Ministry staff;
 - Sector devolution guidelines, which may include standard issues to be handled: Procedures for transfer of tasks and staff, funding issues, legal issues, etc.
 - Plan, oversee and assist in implementation of LG reform [To be defined in DSF Part 2].
 - Identify laws and regulations within each Ministry which needs to be amended, changed or drafted in terms of harmonizing legal framework;
 -
- Ministerial TWG advisory team established if available [i.e. already existing advisors in each Ministry]
- External TA identified for short term technical support if needed
- Ministerial TWG Report completed by **June 2008**.

3.2.2 ESTABLISHMENT OF A MF TECHNICAL WORKING GROUP

Funding arrangements for Municipalities and the division of revenue assignments across the tiers of government will correspond to the new division of functions between central government and the municipalities. New functions with financial implications for municipal budgets will be funded either through grants and/or new revenue assignments (such as taxes, user fees and charges, etc.) in a fair, equitable and transparent manner. However, it is clear that in the short and medium terms, Municipalities will largely rely on fiscal transfers from central government.

As in relation with the issues related to functional assignments, it is highly recommended that MF takes a lead role in coordination with the Decentralization Secretariat in defining basic principals and provide technical recommendations to the section on Local

Government finances in the Law on Local Government and subsidiary finance legislation since MF will be in best position to do. It is therefore recommended that a special MF Technical Working Group is established.

The MF TWG will be transitional groups with a time-bound and clearly defined mandate. The Ministry shall appoint one focal point which will lead the work of their internal Ministerial TWG and liaison with MSATM. It is the responsibility of each Ministry to appoint members of their internal Ministerial TWG and should include both national and local staff. The mandate of the TWGs is defined in TWG TOR in annex 4.

Responsibilities:

- Prepare Ministerial Technical Working Group reports as established in the DSF which will include: [Likely content]:
 - Recommendations for overall fiscal framework;
 - Framework for the establishment of a Municipal treasury (institutional framework, staffing (including redeployment) and costing);
 - Review planning procedures,
 - Finance management procedures;
 - Review accounting systems and links between the municipal and central accounting frameworks,
 - Review and recommendations for changes to national budget structure and regulations;
 - Recommendations for a new grant system;
 - Recommendations for LG own-revenues (short-term, medium and long term);
 - Review M&E and reporting formats
 - Review the audit requirements, systems and procedures for the future municipalities.
 - Define the new role of MF vis-à-vis the Municipal Treasury;
 - Identify and define any capacity building needs for Ministry and new finance staff;
 - Sector devolution guidelines, which may include standard issues to be handled: Procedures for transfer of tasks and staff, funding issues, legal issues, etc.
 - Plan, oversee and assist in implementation of LG reform [To be defined in DSF 2].
 - Identify laws and regulations which needs to be amended, changed or drafted in terms of harmonizing legal framework;
- Ministerial TWG advisory team established if available [i.e. already existing advisors in each Ministry]
- External TA identified for short term technical support if needed.
- Ministerial TWG Report completed by **June 2008**.

3.2.3 ESTABLISHMENT OF A MSATM TECHNICAL WORKING GROUP

In addition to various issues related to functional assignments and fiscal arrangement there is also a need to establish key principles related to local elections, civil service, changes to the structure and role of the MSATM, etc. and it is therefore also recommended that MSATM to establish a TWG to recommend possible solutions to

these very important questions. The mandate of this TWGs is defined in TWG TOR in annex 4

Responsibilities:

- Prepare Ministerial Technical Working Group reports as established in the DSF which will include: [Likely content]:
 - Representational arrangements for Municipalities including Municipal Assemblies – membership, election and composition, Municipal Chief Executives (transitional arrangements), Municipal Mayors and Speakers – elections, responsibilities and powers;
 - Personnel management including municipal employees – status, remuneration, recruitment and management, and staff seconded from Central Ministries to Municipalities – status, appointment, management, accountabilities;
 - Financial management including Ministry role with regard to Municipal financial management and Coordination with MoPF and Line Ministries concerning Municipal financial management
 - Role, functions and structure of the Ministry of State Administration including rationale underlying proposals for reform of the Ministry, relations between the Ministry and the Municipalities, ministerial monitoring and support for Municipalities, ministerial restructuring and staffing needs
 - Capacity building needs at Municipal level and Ministerial level
- Ministerial TWG advisory team established if available [i.e. already existing advisors in each Ministry]
- External TA identified for short term technical support if needed.
- Ministerial TWG Report completed by **June 2008**.

3.2.4 FINAL DECENTRALISATION POLICY AND LEGISLATIVE PROPOSALS

The recommendations provided by the Ministerial Working Groups will provided the basis for the Sections regarding Functions of the municipalities and the role of central government and will be incorporated into the detailed framework that will be the basis for the legal drafter. It will be the responsibility of MSATM to incorporate the various inputs in the legislative proposal for a LG Act.

Step 1: Commence drafting a legislative proposal of the Law on LG

- Identify external TA(s)
- Start drafting a legislative proposal of the law [but not in legal terms at this stage]:
 - Purpose of local government
 - Structure and definition of LG
 - Legislature arrangements – assemblies
 - Executive arrangements
 - Functions of LG: in coordination with the Ministerial TWG
 - Overall funding principles and sources: in coordination with MF TWG
 - Role of central government: : in coordination with the Ministerial TWG
 - Role of the Regions: in coordination with the Ministerial TWG
 - Special cases: Oecusse and Atauro

- Start drafting of legislative proposals of subsidiary legislation/regulation
- Completed in **August 2008**.

Step 2: Legislative proposals endorsed by CoM

- Legislative proposals outlining all detailed sections and principals of the Law on LG;
- Submission to CoM for discussion and endorsement by **August 2008**.
- Draft legislative proposal submitted for national hearing [2-3 weeks national hearing period];
- CoM to analyze outcome of national hearing and incorporate any changes if needed.

Step 3: National Consultation

- Consultations in all Districts in **August 2008**
- National hearing requesting written feedback on legislative proposals **August 2008**;
- Preparations of draft report

Step 4: Legal drafting of the Law on Local Government

- Legal drafting of the new Law on Local Government based on the endorsed legislative proposal;
- Submission to CoM for discussion and preliminary approval of draft Law on LG by **September 2008**.

Step 5: Submission to the National Parliament for approval

- Submission to NP by **September/October 2008**

Step 6: Submission to the President for promulgation

Step 7: Commence costing of the reform

- Identify present costs of delivering services by the new municipal level;
- Costing of delivering the same and/or new (depending of the tasks devolved) at the Municipal level (including staffing costs);
- Investments needed in relation to the reform and operational implications;
- Costs related to capacity building needs
- Review implications of the amalgamations in areas such as existing assets, obligations, budgets etc.
- Completed by **August/September 2008**.

4. Development Partner Group – Local Government Reform

A Development Partner Group for Local Government Reform will be established to facilitate effective information sharing, a forum for discussion and to ensure that activities are streamlined and not contradictory. A TOR for this group will be developed and adopted by the coordination group.

Annex 1: DSF part 1 Timeline

Política & Legislação	Mar	Abril	Maio	Jun	Jul	Aug	
Proposta de política preparada e discutida no MSAOT							
Submissão da nova política e DSF ao CM							
Discussão com o PN sobre a concepção da cooperação							
Socialização da nova política (se aprovada)							
Reestabelecer GTTM e continuar trabalho GTT							
Submissão de relatórios do GTTM a DNDLOT							
Preparação de proposta legislativa							
Submissão de propostas legislativas ao CM							
Consulta sobre propostas legislativas							
Recomendações provenientes da consulta submetida ao CM							
Aprovação final das propostas legislativas pelo CM							
Propostas de lei do GL							
Submissão de propostas de lei ao CM							
Submissão das leis propostas ao PN por parte do CM							

Annex 2: MINISTERIAL TECHNICAL WORKING GROUP

TERMS OF REFERENCE

To ensure technical quality and ownership of the process each Ministry shall establish Ministerial Technical Working Group (MTWG) to take a lead role in reviewing and make recommendations for transfer of tasks, HR needs and re-location, costing, phasing, etc. within each Ministry. The output in a form of a MTWG report will feed into the section on functional assignments in the Law proposal on Local Government.

The Ministry shall appoint a senior staff member as the focal point which will lead the work of their internal MTWG and liaison with the DSF Secretariat in MSA. It is the responsibility of each Ministry to appoint members of their MTWG, however, it is recommended that the Ministry appoints senior staff from all the departments to be involved in the process. The MTWG will be a transitional group with a time-bound and clearly defined mandate.

The Ministry shall also establish a MTWG advisory team if technical advisors are already available within the Ministry. The MTWG together with the advisory team shall identify if any external Technical Advisory services is needed to complete the task assigned to the Ministry in relation to the DSF.

MTWG Responsibilities:

The MTWG will prepare Ministerial Technical Working Group **report** as established in the DSF which will include, but is not limited to: [Likely content]:

- Review of the existing organization of functions and service delivery, which are performed at the local levels,
- Review and Identification of tasks to be transferred to new municipal units;
- Staffing needs, structure and redeployment in accordance with transfer of tasks;
- Review of the existing budgets available for the functions,
- Costing and budgets of local delivery of devolved functions and responsibilities;
- Phasing of transfer of tasks to the new municipalities (first batch municipalities)
- Phasing of transfer of tasks to the new municipalities (second and third] batch municipalities)
- Long term view on future transfer of tasks [second phase of tasks to be transferred]
- Define the new role of each Central Ministry, staffing/budget in accordance with new division of functional responsibility;
- Define the role of the Region [only if they already using the regional level or have plans to do so]
- Identify and define any capacity building needs for Ministry staff;
- Sector devolution guidelines, which may include standard issues to be handled: Procedures for transfer of tasks and staff, funding issues, legal issues, etc.

- Plan, oversee and assist in implementation of LG reform [To be defined in DSF Part 2].
- Identify laws and regulations within each Ministry which needs to be amended, changed or drafted in terms of harmonizing legal framework;
- Specific sector recommendations.

The Ministerial TWG Report completed by June 2008, and submitted to MSATM for further analysis and incorporation to the Law on Local Government.

Annex 3: MF TECHNICAL WORKING GROUP

TERMS OF REFERENCE

The MF TWG shall be established within the Ministry and take a lead role - in coordination with the Decentralization Secretariat - in defining basic principals and provide technical recommendations to the section on local government finances in the Law proposal on Local Government and subsidiary finance legislation.

The Ministry shall appoint a senior staff member as the focal point which will lead the work of their MF TWG and liaison with MSATM. It is the responsibility of the Ministry to appoint members of the MF TWG, however, it is recommended that the Ministry appoints senior staff from all the departments to be involved in the process. The MF TWG will be transitional groups with a time-bound and clearly defined mandate.

The Ministry shall also establish a Ministerial TWG advisory team if technical advisors are already available within the Ministry. The MTWG together with the advisory team shall identify if any external Technical Advisory services is needed to complete the task assigned to the Ministry in relation to the DSF.

MF TWG Responsibilities:

The MF TWG will prepare a Ministerial Technical Working Group **report** as established in the DSF which will include, but is not limited to: [Likely content]:

- Recommendations for overall fiscal framework;
- Framework for the establishment of a Municipal treasury (institutional framework, staffing (including redeployment) and costing);
- Review planning procedures,
- Finance management procedures;
- Review accounting systems and links between the municipal and central accounting frameworks,
- Review and recommendations for changes to national budget structure and regulations;
- Recommendations for a new grant system;
- Recommendations for LG own-revenues (short-term, medium and long term);
- Review M&E and reporting formats
- Review the audit requirements, systems and procedures for the future municipalities.
- Define the new role of MF vis-à-vis the Municipal Treasury;
- Identify and define any capacity building needs for Ministry and new finance staff;
- Sector devolution guidelines , which may include standard issues to be handled: Procedures for transfer of tasks and staff, funding issues, legal issues, etc.

- Plan, oversee and assist in implementation of LG reform [To be defined in DSF 2].
- Identify laws and regulations which needs to be amended, changed or drafted in terms of harmonizing legal framework;

The Ministerial TWG Report completed by the end of **June 2008**, and submitted to MSATM for further analysis and incorporation to the Law on Local Government.

Annex 4: MSATM TECHNICAL WORKING GROUP

TERMS OF REFERENCE

The MSATM TWG shall be established within the Ministry and take a lead role in defining basic principals and provide technical recommendations as described in this TOR.

The Ministry shall appoint a senior staff member as the focal point which will lead the work of the TWG. It is the responsibility of the Ministry to appoint members of the MSATM TWG, however, it is recommended that the Ministry appoints senior staff from all the departments to be involved in the process. The MSATM TWG will be transitional groups with a time-bound and clearly defined mandate.

The Ministry shall also establish a Ministerial TWG advisory team if technical advisors are already available within the Ministry. The MTWG together with the advisory team shall identify if any external Technical Advisory services is needed to complete the task assigned to the Ministry in relation to the DSF.

The tasks of the TWG are as follows:

(i) Representational arrangements

- Make recommendations concerning the numbers of and how to elected councilors who will be members of Municipal Assemblies and, if necessary, on other ex-officio members;
- Consider and suggest the modalities and working methods that will apply to the functioning of Municipal Assemblies (functions of members, frequency of meetings, quorums, decision-making processes, etc.);
- Define the transitional arrangements through which Municipal Chief Executive will be appointed by the Central Government (appointee, qualifications, role, etc.);
- Define the period during which such arrangements for appointed Municipal Heads will apply;
- Recommend how Municipal Mayors and Speakers will be elected following the transitional period during which Municipal Chief Executive will be appointed;
- Make recommendations concerning the responsibilities and powers of Municipal Mayors.

(ii) Personnel management issues

- Make recommendations concerning the status of personnel directly employed by Municipalities and how they are to be managed (salary levels, recruitment, promotions, etc.);
- Consider the status and management of any civil servants who are “seconded” to work for/with Municipalities.

(iii) Financial management issues

- Make recommendations concerning the role of the Ministry in Municipal financial management (fund flow, authorisation of transfers, etc.);
- Make recommendations on how the Ministry will coordinate with other Ministries (MF, Line Ministries) with regard to Municipal financial management.

(iv) Local Government Commission

- Consider the need to provide for a Local Government Commission at the national level, with a broad mandate to review local government issues (including fiscal decentralisation) and arrangements;
- Make recommendations concerning the responsibilities, powers, functioning and membership of a Local Government Commission (see DSF).

(v) Role, functions and structure of the Ministry of State Administration

- Define how the Ministry will relate, in general, with Municipalities
- Define how the Ministry will support and monitor Municipalities and their performance;
- Make recommendations concerning any need to restructure the Ministry in the light of new/changed functions and in the context of decentralisation and Municipalities.

(vi) Capacity building needs

- Consider the generic capacity building needs of Municipal Assemblies and staff and make recommendations on how those needs will be met;
- In the light of its new/changed functions, consider the capacity building needs of the Ministry (staffing levels, training, systems and procedures, investments, etc.).

(vii) Risk analysis and mitigation

- Undertake an analysis of the possible risks attached to decentralisation and to identify suitable risk mitigation measures.

(viii) Legal issues

- Identify any need to modify existing legislation/regulations concerning general issues (elections, MSATM organic law, civil service regulations, etc.) in order to ensure consistency with GoTL's policy on decentralisation and local government.

The Ministerial TWG Report completed by the end of June **2008**, and submitted to the Decentralization secretariat in MSA for further analysis and incorporation to the Law proposal on Local Government.