

Check against delivery

**Statement on the occasion of the Security Council
Open Debate on the situation in East Timor**

by Sergio Vieira de Mello
Special Representative of the Secretary-General
and Transitional Administrator for East Timor

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President, Members of the Council, Your Excellencies, it is again a pleasure to sit before you, together with my friend and colleague, José Ramos-Horta, to provide you with a briefing on the situation in East Timor as its transition to Independence rapidly – indeed, it is now only 110 days away – comes to pass.

With the approach of independence comes the end of a quite remarkable chapter in the history of the United Nations: one marked by an extraordinary collaborative effort. An effort reflected here, and for this I must thank the Permanent Representative of Mauritius, by the Council's decision to devote so much attention today to the situation in East Timor. The presence here also of Prime Minister Howard of Australia is yet a further sign of the depth of support enjoyed by East Timor.

On 20 May – Independence Day – East Timor's dogged and inspiring quest for self-determination will have been completed. Our happiness, however, should be (and is) tempered by the reality that Independence does not mark the end of East Timor's struggles. Far from it.

As you know, the Constituent Assembly began its work in September 2001. Today, after 20 weeks of active participation and intense debate, the Assembly has achieved a mammoth task by reviewing and approving most of the draft constitution. Just before I left for New York, I was invited to an exchange of views with the Constituent Assembly. I briefed them on the debate that we will have here today and on our hopes for its outcome, hopes I shall go into in some detail in just a moment. It will not surprise you to hear that they raised with me their concerns over border security, the future of serious crimes prosecution, UNTAET's ongoing downsizing, and our plans for a successor mission.

I also approved the Constituent Assembly's request for a further extension until 9 March. I wholeheartedly encouraged, welcomed and accepted this suggestion. It is in East Timor's best interest that the Members of the Constituent Assembly be given time to absorb the various internal and external submissions they have received. The additional time will also allow the Members of the Assembly to undertake a more effective public consultation process.

Although the Constitution is nearing completion, the transfer of power from the United Nations to the East Timorese people requires one final institutional development – the election of the President. On 14 April, the people of East Timor will elect their first President in a free and fair election with universal suffrage, in a secret ballot and on the basis of a single national constituency. This time the Timorese will be taking a dominant role in implementing these elections. There will be five Electoral Commissioners, three of them East Timorese, two of them internationals. East Timorese will head and staff all 13 District Electoral Offices, assisted by international electoral officers in logistics and other advisory capacities. A few days ago, I issued invitations for international observers to be present throughout the electoral process.

On 17 April, the result will be announced and East Timor's new President will be inaugurated just after midnight, on the 20th of May.

On the international front, foundations continue to be laid for strong relations between East Timor and Indonesia. As mentioned in the Secretary-General's Report, last November, we for the first time hosted a meeting of the Joint Border Committee, the third time this body has met. I am sure my colleague, José Ramos Horta, will give you more detail. Toward the end of February, Indonesia and East Timor will also be holding high-level talks in Denpasar, to be immediately followed by trilateral talks when East Timor's other immediate neighbour, Australia, joins the table.

The meeting will review progress made on all bilateral issues that have been the subject of negotiations between UNTAET/ East Timor and the Government of Indonesia over the past two years and discuss some new issues such as maritime delimitation. We also hope to sign a number of arrangements strengthening cooperation between Indonesia and East Timor in areas such as postal services and police cooperation. The trilateral talks will likely discuss regional cooperation, including the possible establishment of a South West Pacific forum, and regional security arrangements, economic cooperation and development matters.

In addition, East Timor has also been invited to participate in a ministerial level regional conference co-chaired by Australia and Indonesia on People Smuggling, Trafficking in Persons and Related Transnational Crime, involving ministers from up to forty countries.

Key among the outstanding bilateral issues requiring resolution at the Denpasar talks is the need to normalize the land border between East and West Timor. We have already taken the first steps towards delimitation of the border. A joint workplan has been agreed and the first joint reconnaissance survey of the border will be undertaken next month. We are also working towards finalising an arrangement that will permit movement of people across the border for customary and traditional purposes and for trade at markets in the vicinity of the border.

The security situation in East Timor remains stable. The border with Indonesia continues to be secure: there have been few sightings of militia along the Tactical Coordination Line, although unregulated markets are increasingly a problem. Crime rates are not increasing and the East Timor Police Service is growing into its duties admirably. Nonetheless, hardline militia elements may still pose a long-term threat and until there is substantial progress in the establishment of an operational East Timor Defence Force, the presence of an appropriate military component will be necessary. Likewise, until the national police force is fully deployed, UN Civilian Police will need to remain in East Timor to assist in training and enforcement.

Long-term peace and stability will depend on the degree to which we can overcome the legacy of the September 1999 violence and destruction through progress on the return of the remaining refugees, by fostering and facilitating reconciliation, and by the effective prosecution of serious crimes. These efforts should be viewed as interdependent.

In a boost to the reconciliation process, on 21 January, I swore into office the seven National Commissioners of the Commission on Reception, Truth and Reconciliation. This was a major achievement, and an arduous one coming some eighteen months after the selection process began.

As you know, the Commission has three main functions: to seek the truth about human rights violations in East Timor perpetrated between April 1974 and October 1999; to facilitate community reconciliation; and to report to the government on its work. It is not a substitute for justice as serious crimes must continue to be dealt with by the courts. Rather, it will complement that process – and avoid unduly burdening a strained court system – by dealing with lesser offences through a community reconciliation process.

In the coming weeks the Commissioners will need to appoint regional commissioners and their senior staff. Securing further donor support will also be critical to the ability of the Commission to function as intended.

The sensitive task of reconciliation between East Timorese on both sides of the border is progressing through a unified reconciliation team on behalf of the Second Transitional Government, with the full backing of both Chief Minister Mari Alkatiri and Xanana Gusmão, and of my own office. This important process was led, until recently, by my former Chief of Staff, who has now been replaced by the Head of our Political Unit.

The justice system is still in a nascent state and needs continued close attention. I know only too well that this is an area in which we have faced particularly significant problems – to an extent understandable since there was nothing, nothing, left of a justice system in September 1999.

Today, there are only 25 East Timorese judges and 13 prosecutors, the majority of whom have had only secondary education and less than two years of training and experience. On occasion, inappropriate sentences have been handed down, leading to retrials. Cases of intimidation during trials have occurred, in one instance resulting in the closure of the Baucau courthouse. The lack of resources, including interpreters and court staff, has led to delayed hearings and unduly prolonged detention of suspects.

You, yourselves, identified “shortcomings in the administration of justice in East Timor”, particularly in the area of serious crimes prosecution, in your report of November 2000. In line with our overall strategy, day-to-day management of justice has been devolved onto the Government. Nonetheless, I still bear ultimate responsibility for the administration of justice under the UNTAET mandate. I have made, and am making, a concerted effort to ensure that UNTAET cooperates closely with the public administration to address the problems faced within this sector and ensure that by independence we will be able to leave behind strong institutions within the justice sector; these will be critical for the stability of this new country.

To establish a balanced approach ensuring equality between prosecution and defence, as well as appropriate capacity for the courts to adjudicate, we are looking particularly at the establishment of a legal aid service, as well as support for court administration. I have proposed a set of immediate action points that support both the Special Panels for Serious

Crimes and also court administration more generally. They include immediate recruitment of international judges, recruitment of a Special Panels Administrative Coordinator and a Judges associate for the national judges, as well as enhancing the capacity of the courts for simultaneous translations. We are proposing a plan for the mobilization of external resources, which will support the courts, particularly in the areas of transcription services and equipment, witness expenses, Internet access and library and research materials. An action plan is to be developed to ensure a coordinated approach to court listing, prison liaison, publication of court documents and resource mobilization.

I have also endorsed a plan to ensure the establishment of a legal aid service. This has been too long outstanding and is particularly important in the view of the current resource disparity between the prosecution service and the office of the public defenders. The establishment of the service will allow for the creation of an independent statutory body, which although funded through appropriations from the East Timor Public Administration budget will also be able to receive independent funding and human resource and other support.

Considerable improvements have been made in the area of Serious Crimes prosecutions in terms of management of human and other resources. The Office of the General Prosecutor, now headed by an East Timorese prosecutor, is supported by an East Timorese Deputy General Prosecutor of Ordinary Crimes and a new international Deputy General Prosecutor of Serious Crimes. The selection and management of staffing and resources provided to the Serious Crimes Unit has been enhanced in order to meet key goals for 2002, and, as of this month, teams of investigators are being based in several districts, to promote greater efficiency and to create a closer relationship with the communities in which the investigations are undertaken. It is anticipated that, over the course of 2002, these changes should permit an increase in the number of indictments over and above the 10 priority cases of crimes against humanity. These tasks can only be accomplished with full funding of approved positions from assessed funds, as well as continued support by donors for additional specialized expertise and resources, in such areas as forensic and investigation experts, translators and transport.

In October 2001, my Deputy met with the newly appointed Attorney-General of Indonesia. At this meeting it was agreed that regular monthly

meetings on justice should be held with a view to maintaining a dialogue on issues of mutual concern. Following this visit, the new East Timorese General Prosecutor paid a courtesy call on the Attorney-General in November. The first of the monthly meetings was finally held in Denpasar in mid-January.

I welcome President Megawati's selection of eighteen judges for the Ad Hoc Tribunal on Human Rights. We are now keen to see the Judges and prosecutors sworn in, court staff recruited and a date set for the commencement of trials of the first group of suspects publicly identified in early September 2000 by the then Attorney General of Indonesia. This is all the more important since we are now well over two years since the destruction of 1999.

The recent Supreme Court decision to increase the sentences of three of the men convicted of murdering our UNHCR colleagues in Atambua in September 2000, to between five and seven years, is a welcome move going some way to demonstrating, in Indonesia, as in the rest of the world, the opprobrium felt for these foul acts.

Finally, progress has been reached in cooperation on investigations into the killing of Private Manning, with several accused standing trial in Jakarta for his murder. A similar model of cooperation has been agreed on for the investigation into the killing of Private Devi Ram Jaisi of Nepal.

Real momentum, however, on cooperation with Indonesia in the area of serious crimes remains elusive. Of utmost concern has been our inability to ensure that the Memorandum of Understanding on Legal, Judicial and Human Rights Related Matters, signed in April 2000, between East Timor and the Government of Indonesia, becomes fully operational.

In the remaining four months to independence, UNTAET, together with the Prosecutor-General's office, will continue to meet with the Indonesian authorities to push for further progress on serious crimes; these working level meetings must become a regular reality. For the people of East Timor, peace and reconciliation efforts will mean little if the principal perpetrators of atrocities committed in 1999 are not brought to justice.

Finally, I should say that we welcomed the visit to East Timor and Indonesia of Ambassador Leandro Despouy, the Chairman of the Human

Rights Commission, who was effectively able to re-focus the spotlight onto the outstanding need for justice in the area of serious crimes, whether that justice is to be served in Dili or Jakarta. I hope that his efforts help us attain results.

The number of refugee returns increased during this reporting period, reaching a total of some 192,000. This still leaves perhaps up to 60,000 refugees in West Timor. We will redouble our efforts in partnership with the second Transitional Government and UNHCR, together with the civil and military authorities in Indonesia, to encourage as many of the remaining refugees to return to East Timor before independence. Cross-border visits such as the highly successful visit by Xanana Gusmão to West Timor from 26-29 November appear to be one of the most effective ways of countering misinformation and fostering reconciliation. At the same time we have increased our efforts to provide clear information to refugees on the newly established reconciliation commission and to those responsible for past criminal acts, we will ensure that they will be treated fairly before the developing justice system of East Timor.

While security and militia intimidation continue to be factors inhibiting refugee returns, economic factors, including lack of shelter and access to pensions, are also significant deterrents. I have been looking into ways to improve the shelter for returnees and I highlight here that more resources are needed to improve this aspect of life for the East Timorese and for returning refugees.

It is also important that the arrangements entered into between East Timor and Indonesia on pensions and termination payments to former East Timorese employees of the government begin to bear fruit. Just before I left Dili we handed a further 20,000 registration forms to the Indonesian authorities. I am hopeful that the first pension and termination payments in East Timor will be made in March 2002.

Those former Indonesian Government employees and pensioners who opt for East Timorese citizenship will, however, stop receiving their benefits at independence. That is why a Special Fund is being established to offset these lost pensions. The Special Fund was launched as part of the joint UN/Government of Indonesia Appeal in Jakarta on 27 November 2001. I would like to thank the Governments of Indonesia and Portugal, as well as the European Community, that have pledged around USD 4.5 million for the Fund thus far. The Fund would, however, require substantially more capital if we

hope to generate meaningful benefits for its 30,000 intended beneficiaries. It will prove difficult to encourage the 9,000 remaining former Government employees and pensioners to return to East Timor, together with their families, without this alternative. Support for the Special Fund is thus another key priority over the next 60 days.

In December, a major breakthrough was reached between East Timor and UNTAET officials, led by Chief Minister Alkatiri, with industry currently developing a major petroleum field in the Timor Sea. A tax and fiscal package was agreed which will maximize petroleum revenues to East Timor by allowing gas development in the Timor Sea to go forward. This development will proceed under the terms of the Treaty negotiated last year with Australia, which will enter into force upon East Timor's independence.

Overall revenues to East Timor from the combined gas and liquids phases of Bayu-Undan, the field under development, will be much larger than previously forecast. However, revenues from the first few years of this field may not be as high as initially predicted because of both the revised fiscal terms and because production is now more conservatively estimated.

And now to the successor mission: a subject that continues to occupy much time within UNTAET and the Second Transitional Government. Our unprecedented advance planning has resulted in a "framework" for the successor mission, which is attached to this report of the Secretary-General. In this simple proposal, the Secretary-General delimits the scope of action for the future peace operation, and – maybe more importantly – bases its scope on the needs articulated by the future host government and current UNTAET managers. In other words, it is a consensus document with which all parties on the "operational level" are in agreement. The hope is that such an exercise allows for a better synergy and sense of a common goal in the successor mission. I am confident that this is being achieved and I commend it to you for your consideration and approval.

Briefly, let me summarize the main contents of the framework.

First and foremost, the mission will be guided by the principle identified in your Presidential statement of October – namely, to ensure that "all operational responsibilities are fully devolved to the East Timorese authorities as soon as is feasible without jeopardising stability and progress made". The mission is expected to achieve its core mandate in around two

years from Independence provided the fundamental conditions for implementation continue to prevail.

In this regard, I would like to reiterate here an important observation in the Secretary-General's report: that funding of the East Timor police service and defence force will be essential to the achievement of the core mandate. As you know, both are highly under-resourced and will require bilateral and other voluntary assistance to be able to function effectively.

The civilian activities of the mission will focus on providing international civilian assistance for core functions in public administration. As you know, the civilian experts would provide crucial support to the emergent East Timorese administration. The concept for this was extensively discussed at the last Council meeting. Other civilian activities will include providing assistance in serious crimes investigations, as well as human rights mainstreaming.

On the police side, as I understand it, there is no precedent for nation-wide UN executive policing responsibility in an independent state. In short, overall command of the East Timorese police together with CivPol will rest with the international Commissioner. It is clearly agreed that once a unit is handed over to an East Timorese officer, he or she will continue to report up a single chain of command which – as I said – will be CivPol-led. We, the Government and UNTAET both, believe this is absolutely essential to ensuring coordination of police response in the field. During this period, shadowing the international Commissioner will be the East Timorese Commissioner-in-training whom I appointed in October last year. We are working together with the Government to ensure that on independence the Government concludes with the United Nations an agreement which addresses the role of the police component and its relationship with the East Timorese police.

CivPol activities in the future mission will focus on finishing the job of developing the East Timorese police, which will be at a little over half its target strength on the day of Independence. The East Timorese police is expected to reach full capacity by January 2004. A gradual handover of individual CivPol/national police units and districts, under unified command, will begin in May this year and likely end in January 2004. The

handover will be contingent upon a positive assessment of personnel and institutional realities: we are currently identifying the specific criteria for appropriate UN certification and accreditation.

Subject to the timely achievement of certification and accreditation targets, the CivPol strength will start with 1,250 at independence and be reduced by an average of 5% every month, leaving about 100 officers by January 2004 working in a purely advisory role. As CivPol reduces in strength, it will be increasingly important for police contributing nations to provide senior police officers with capacity-building and advisory skills: this will be absolutely critical to the success of this component of the successor mission.

On the military side, the mission will continue providing support for external security and territorial integrity, initially with a strength of 5,000. Once the border areas are delimited and national border control structures are in place, the size of the military component would be reduced, subject, needless to say, to the overriding caveat of prevailing security conditions.

Furthermore, it will be vital for the mission to ensure timely handover of responsibilities from the military component to the East Timor Defence Force and relevant public administration departments. As with the police, UNTAET is working together with the Public Administration to ensure that immediately upon independence a formal understanding is in place to address clearly and unambiguously the role of the UN military component and its relationship with the ETDF.

Before wrapping up UNTAET, the Secretary-General has recommended that our mandate be extended until the date of independence on 20 May. This would allow UNTAET to make the necessary preparations for the presidential elections and events leading up to Independence Day, as well as going some way to completing the priority tasks outlined above. I very much hope that you concur and make such a decision today.

Nonetheless, we are continuing – determinedly so – with a simultaneous wind-down of the mission to ensure we minimise trauma caused by the end of UNTAET and the commencement of a smaller, more limited mission. I am confident that we will meet the Secretary-General's commitment to a 75 % cut

of international personnel in the Public Administration by the end of the UNTAET mandate. After reducing 35 % by November last year, we are reducing our staff by an additional 10% each month over four months, starting end January – that is, tomorrow when 140 staff will depart the mission – and continuing through end April. This will ensure that our 75% reduction is achieved, leaving around 200 international staff and 50 UNVs in government at the end of the mandate.

This downsizing process has been particularly difficult, as the Government bodies and ministries are in dire need of international staff everywhere. Indeed, I believe it was your in-principle support for a continued post-independence provision of critical assistance to the East Timorese government that encouraged the ministries to make these difficult choices. As you know, the resultant list of 100 posts fall within the areas of finance and central services, justice, internal systems, and essential services.

Meanwhile, UNDP and UNTAET, together with the government, have also agreed on job descriptions and person specifications for the posts – and DPKO has prepared the UN vacancy announcements which can now be viewed on the UN website.

In addition, a recruitment process for the 100 functions is being designed. It is our target that experts arrive in theatre early enough to overlap with their international predecessors (unless incumbents are selected). In this context, I appeal to your continued support in ensuring timely action and an early mandating of the successor mission. This will allow our collective early planning and preparations to bear fruit.

The East Timorese Government will also require international assistance in support of social and economic development and poverty reduction. The ongoing UNDP study has identified some 200 such functions as crucial to the effectiveness of the new State, and voluntary arrangements are being sought to meet this requirement. Members of the Constituent Assembly are rightly anxious to ensure that the development of East Timor's health and education sectors, in particular, continue beyond independence; it is through these positions that we will be able to help assuage these concerns.

To ensure the division of responsibility among principal players who will assist East Timor in these areas, I have been consulting with the United Nations agencies and other entities seeking their support in principle to help fill the 200 civilian technical assistance posts. These will also be circulated to Member States.

We have also been downsizing a number of international posts outside of the Public Administration. Starting with my extended office, which includes public information, legal affairs, political affairs, human rights, and others, the reduction will be in monthly tranches resulting in an overall reduction of 40% by end April. Similarly, the UNTAET administration is cutting back by 40%.

Another element that is key to a smooth transition is the incorporation within government of essential common services and the transfer of UN assets supporting those services. A preliminary list of assets for potential disposal to the East Timorese Government has undergone a financial sustainability review by the government and the final list of desired assets will be presented to the ACABQ next month for its consideration.

Finally, in the home stretch to independence, the Government and I have asked for East Timor to be deleted from the list of non-self-governing territories. I expect the government to immediately seek membership of the United Nations. This orphan of the United Nations will then become a full-grown member of our family.

As we approach the conclusion of this remarkable exercise, I invite members of the Council to attend the Independence Day celebrations. You visited once before, providing welcome support in a most sombre time, we now very much hope that you can visit in altogether more uplifting circumstances. You will have good reason to be proud.

Thank you.