

# TIMOR-LESTE

## THE BUSINESS REGULATORY ENVIRONMENT



A Report Prepared by the World Bank

June 2006



World Bank  
Timor-Leste

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### **List of Abbreviations**

ADR	Alternative Dispute Resolution
BDC	Business Development Center
BPA	Banking and Payments Authority
BRU	Business Registration Unit
CEO	Chief Executive Officer
CAA	Civil Aviation Authority
DBIs	World Bank Doing Business Indicators
IADE	Domestic Investment Promotion Agency
ICTs	Information and Communications Technologies
LLC	Limited Liability Company
MAFF	Ministry of Agriculture Fisheries and Forestry
MCA	United States Millennium Challenge Account
MD	Ministry of Development
MJ	Ministry of Justice
MLS	Ministry of Labor and Social Security
MPW	Ministry of Public Works
MTC	Ministry of Transport and Communications
PA	Ports Authority
PM	Office of the Prime Minister
MPF	Ministry of Planning and Finance
PSD	Private Sector Development
PTT	Post and Telecommunications Authority
SEP II	World Bank Second Small Enterprises Project
TITL	Trade Invest Timor-Leste
UN	United Nations
UNTAET	United Nations Transitional Administration for East Timor
USAID	United States Agency for International Development

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# **TIMOR-LESTE**

## **THE BUSINESS REGULATORY ENVIRONMENT**

### **Executive Summary**

1. Timor-Leste started as an independent country facing some very difficult challenges. The country was extremely short of skilled human resources and remains so. It faced the challenge of moving from the inherited Indonesian legal system to a new legal system based on the lusophone tradition. Added to this was the adoption of Portuguese as a new official language. Good work has been done by the Government and the Parliament in addressing the constraints and creating the building blocks of the legal and regulatory framework needed for competitive and equitable private sector development. But this is work still in progress and the enabling environment is far from complete. Private investment will be unlikely to flow in sufficient quantities to generate the growth and jobs needed in Timor-Leste until further major improvements are made to the business environment. There are gaps in key areas of legislation and regulation, but more critically, the institutions needed to enforce and administer the laws and rules do not yet have the capacity to do so effectively. The end result is a business regulatory environment that many existing and potential entrepreneurs still regard as more hostile than welcoming to private investment.

2. On the positive side, Timor-Leste, as a new country, has the opportunity to design its legal and regulatory framework with a comparatively clean slate. The challenge is not one of reform but of building new structures. Timor-Leste is not encumbered by the multilayered rules and regulations that are proving so difficult to change in other countries, for example in neighboring Indonesia. Timor-Leste's challenges are rather to fill gaps in key areas of critical legislation and to build administrative capacity. This presents an opportunity to apply the lessons of best practice from around the world to building Timor-Leste's legal and regulatory framework. It also provides an opportunity to learn from others' mistakes and avoid repeating them.

3. Also on the positive side, there has been real progress. Under the UN Transitional Administration as well as the independent Government, Laws have been passed, rules approved and institutions created and strengthened. Achievements to date include the approval of legislation and rules covering tax and customs, border control and

immigration, business registration, banking, payments and foreign exchange, commercial societies, foreign and domestic investment, some areas of land law, insurance, notaries and fisheries.

4. The challenges facing the country remain formidable, however. There are still critical gaps in land law, land and property registration, leasing and collateral, bankruptcy, business licensing, accounting and auditing, competition policy, intellectual property rights, social security, and key sectoral legislation in areas of important potential in the economy such as tourism, manufacturing and trade. The list of work to be done is very long. It could take a generation or more for Timor-Leste to put everything in place that would be expected in a fully functioning market economy. But Timor-Leste cannot afford to wait a generation for the necessary improvements. Solutions need to be devised which prioritize and make a quick impact on the binding constraints. This is true across all areas of economic development and is particularly true in improving the business regulatory environment.

5. Despite gaps in the legal and regulatory framework, the biggest challenge now facing the Government is not the drafting of laws and regulations but the building of the capacity needed to enforce and administer them. Even in those cases where laws and regulations exist, there are widespread complaints that they are not being adequately administered. Despite recent progress, the court system is so overburdened with criminal cases that it has devoted hardly any time at all since 1999 to commercial dispute resolution, debt collection or other civil cases. There have been widespread complaints about the difficulties in registering a business. Bureaucratic hold-ups at the port have been a major problem. Getting approvals from Government departments, across the board, is a problem, capacity in the civil service is very thin, there are bottlenecks caused by the centralization of decision making at higher levels, and there have been anecdotal reports of corruption in some public entities. The professions needed to service a market economy such as lawyers, accountants and auditors are either in short supply or non-existent in the country.

6. Government is aware of these shortcomings and work has started on institutional development. In addition to moving ahead slowly but steadily with the legislative agenda Government is in the process of strengthening the Business Registration Unit and extending its operations to four District capitals outside Dili. It has created and strengthened two agencies, the foreign investment and export promotion agency, Trade Invest Timor-Leste (TITL), and the domestic enterprise development agency (IADE), whose focus is on administering the investment laws and promoting external and domestic investment respectively in Timor-Leste. Government has taken steps to improve the administration of the tax and customs departments. The reorganization of the Government structure in mid-2005 is generally regarded as having increased the focus on the business environment. And in mid-2005 Government initiated a formal dialogue with the private sector on legal and regulatory matters, under the Chairmanship of the Prime Minister.

7. But private investors say much more is needed, and quickly, if economic growth is to gather momentum and jobs are to be created. The time is now right for Government to respond to this call, to re-focus and put the business regulatory environment at the top of its development agenda. In this report we suggest some priorities and approaches

which will help achieve this, and which take account of Timor-Leste's unique circumstances, notably the fact that it is a new country with capacity limitations in its fledgling institutions.

## **Recommendations**

8. In setting its development agenda for the business regulatory environment we recommend that the Government take account of the realities in Timor-Leste by adopting several key guiding principles:

- Accept that everything cannot be done at once. Identify the binding legal and regulatory constraints, and put most of the resources to work in addressing them.
- Accept the reality that institutions cannot be built overnight. Adopt pragmatic solutions which take this fact into account and minimize the administrative burden. Keep laws and regulations simple and easy to administer. Minimize the number of approvals required and make them automatic where possible. Use risk based assessments rather than a detailed examination of every proposal or application. Use information and communications technologies to maximize public understanding of the rules and procedures and to minimize bureaucratic discretion and paper work
- In building institutions, focus on those that are identified as bottlenecks and impediments to private sector investment and growth. Achieve some quick successes to create momentum. The rest can be strengthened later, using the experience gained
- Enlist the support and resources available in the private sector, not only in diagnosing problems but also in devising and implementing pragmatic solutions
- Make maximum use of the support available from the donors and other external sources to support this agenda

## ***Laws and regulations***

9. We recommend devoting resources immediately to completing the highest priority aspects of the legal and regulatory framework. The emphasis should be on achieving quick wins which will also help jump start the economy. Areas that meet these criteria are:

- Land and Property and Land Titling
- Leasing and collateral
- Licensing of high priority economic sectors like tourism, manufacturing and trade while eliminating licensing requirements for economic activities that have no implications for health and safety or national security
- The environment

10. Work is already underway in several of these areas. We recommend that all available legal expertise be put to work on the above Laws and regulations so that they can be completed and processed through the necessary channels as a top priority. If there is a shortage of expertise in any of the above areas we recommend that it be mobilized as soon as possible, using donor support if necessary.

11. Once the above laws and regulations are in place efforts and resources can then be re-focused on creating other necessary laws and regulations and in building the longer term legal and regulatory foundations for a market economy. These include:

- Accounting and auditing
- Bankruptcy
- Competition policy
- Intellectual property rights
- Labor and social security
- Chamber of Commerce

### *Institutions*

12. As with the laws and rules, some institutions are more critical than others for a conducive business environment. We recommend that priority be given to:

- Awareness training for civil servants with the aim of making Government more business friendly. This does not mean Government should let the private sector do whatever it wants. It means it should provide businesses with the services they need and expect from Government, and regulate them effectively and transparently while minimizing delays. Government has already provided general training for a small group of civil servants with support from the SEP II Project. We recommend that the lessons of this first phase of this training be adopted and applied in a second phase of training to larger groups of civil servants who interface with the private sector, e.g. in business registration, licensing, customs and taxes, and immigration and border control. Civil Servants who work at the interface with business need to receive repeated training.
- Publication of laws and rules. Where the laws and rules have been established we recommend they be publicized and made transparent to all who administer them and are regulated by them. This can be done using the internet but also by preparation of brochures and handouts and flow charts for complex processes such as construction licenses. We recommend that service standards for key agencies be adopted, published and complied with.
- We recommend that Government continue to focus and put top priority on strengthening the institutions governing international investment (TITL), domestic investment (IADE), sectoral licensing authorities, the Land and Properties Agency, Tax, Customs and Immigration.
- Efforts will need to continue over the long term in building an effective court system which will be able to deal on a timely basis not only with criminal cases but also with civil cases, notably property rights and contract enforcement. In the



short term we recommend that the legal and institutional implications of adopting alternative dispute resolution (ADR) mechanisms such as arbitration and mediation be examined. First steps could be taken to set up ADR mechanisms in the short term as a temporary alternative to the court system and in the longer term as a complement to it. We also recommend that the possibility of simplified and summary procedures for dispute resolution be considered.

- We recommend that training for Accountants, Auditors and Lawyers and Notaries be initiated. It will take many years before the number and quality of these professionals is adequate for Timor-Leste's needs but the training can begin as soon as possible. In the short term, given the critical gaps in these services, we recommend that international expertise to support the legal and judicial system and the legal and accounting profession be actively sought and employed.

### ***Preparation Processes for Laws and Regulations***

13. Given experience to date, the need to prioritize and make best use of limited resources, and the risk of creating laws and regulations which are not fully compatible with each other, it would be a logical step to select or create and then strengthen a central coordinating unit for the drafting and clearing of all Laws and Regulations. This unit could be attached to the Prime Minister's Office, the Council of Ministers or the Ministry of Justice. Among other things the work of this unit would be to assess the impact of new regulations proposed by sector ministries or other agencies to ensure that they fully comply with Government policies and priorities, that they are compatible with other laws in effect, that they are easy to implement and do not impose an unnecessary administrative burden either on the Government or the private sector. Extra care should be taken to ensure that the creation of this unit does not lead to an increase in bureaucratic procedures or to a slowing down in regulatory development.

### ***Consultation between Government and the Private Sector***

14. The national Business Government Dialogue initiated with a first plenary session in mid-2005 was an excellent starting point for a permanent mechanism for consultation between the Government and the private sector on the business environment. A second plenary was held on March 30-31. Based on widespread demand from the private sector, it focused on Business Registration. We recommend that the two public/private joint working groups created during this second plenary on:

- business registration
- translation and dissemination of laws and regulations, and land legislation

be convened as soon as possible and meet on a regular basis to work on designing and implementing a reform agenda for these two areas. The intention is that these groups should report back on their activities to the next plenary, at which additional working groups could be created as required. The preparation phase for the plenary included informal coordination with private sector representatives, in particular the Business Forum Steering Committee who was also invited to speak. We recommend that future

plenary meetings include closer coordination with private sector to ensure the Forum adequately addresses their concerns and, in addition to Government speakers, private sector speakers be given the platform to present on the key topics. It would be appropriate for Government to adopt a listening and responding role rather than a presenting role in these forums, even though the working groups will consist of both public and private sector members.

15. This mechanism will need a permanent secretariat, which might be in the Office of the Prime Minister, and supported by TITL and IADE. The current interim plan places the responsibility for supporting the mechanism on the Business Development Centers (BDCs) and IADE, but a more permanent solution will be needed to ensure continuity. The secretariat will provide logistical support and follow up for working group and plenary meetings, as well as mobilize analytical work and studies in key areas identified for action. This plenary consultation and working group mechanism not only provides an opportunity for Government to improve its communications with the private sector. It also provides an excellent opportunity for Government to mobilize expertise from within the private sector to help implement workable and home grown improvements to the business regulatory environment and to monitor the effectiveness of measures already implemented.

16. It would also be the national interest for Government to allow the development of private sector organizations in Timor-Leste without interference or regulation. These would include for example the Business Forum Steering Committee, formed in January 2006 and set to hold its first General Assembly in April 2006, as well as a Chamber of Commerce and sector-specific associations and professional bodies such as a Bar Association and an Accountants Association.

## A. Introduction

17. Government deserves much credit for the work it has been doing since it first took office, to create a basic legal and regulatory framework to govern and encourage competitive private sector activity. However, the work is far from complete and there remain many gaps. The challenges to creating a business regulatory environment conducive to private sector development in Timor-Leste are daunting. In practice, whatever laws and regulations do exist are applied mainly through weak and/or fledgling institutions. Even where the laws and regulations exist, Timor-Leste inherited a situation where human capacity to enforce and administer the framework is severely limited. The result is a legal and regulatory environment that is perceived by many in the private sector to be somewhat arbitrary and often an impediment rather than an encouragement to investment and growth.

18. This report<sup>1</sup> reviews the legal and regulatory environment governing private sector activity in Timor-Leste, identifying progress to date, shortcomings, gaps and opportunities for development. The subject area is understood to include the general framework governing investment, business licensing and registration, operations of enterprises, employment, transactions, trade, tax and customs, immigration, standards, contract enforcement, dispute resolution, land and other property rights, bankruptcy, and other laws and regulations. The report also covers the institutional mechanisms for enforcing and applying the laws and regulations and the extent to which actual practice is fair and predictable. It examines the interface between the public and private sectors and the extent to which this interface promotes transparent competitive activity and facilitates investment and growth. The mechanisms employed for consultation with the private sector, civil society and other stakeholders in preparing and improving the legal and regulatory framework, are also reviewed.

19. During 2005, Timor-Leste was added to the Bank's Doing Business database which focuses on the business regulatory environment using standard sets of assumptions to enable comparisons across some 155 countries. A comprehensive Doing Business

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<sup>1</sup> The report was prepared by Bernard Drum ([bdrum@worldbank.org](mailto:bdrum@worldbank.org)) using inputs from several sources, including (i) interviews with entrepreneurs and other stakeholders completed during several missions to Timor-Leste, the latest of which was in October 2005, (ii) contributions from Dili-based consultant Maria Fernanda Simoes, (iii) the Bank's Doing Business database and Doing Business Indicators analysis for Timor-Leste which was prepared in mid-2005 by Marcelo Lu and profiled later by Penelope Fidas, (iv) the SEP II supported Business Government Dialogue which held its first plenary session in June 2005 and (v) contributions and suggestions from the Bank's 2005 PSD team for Timor-Leste - Rui Manuel Hanjan, Johanna Stenstrom Johansson and June-wei Sum and (vi) detailed comments provided by Elisabeth Huybens, Edith Bowles, Helen Sutch and Rita Ramalho, and by peer reviewers Matt Gamser, Syed Mahmood and Chris Richards. The Appendix of the report was written by Johanna Stenstrom Johansson under the supervision and with inputs from Enrique Aldaz-Carroll. Atsuko Nishikawa Suzuki and Annabella Skof provided helpful comments on the Appendix. This volume is a product of the staff of the International Bank for Reconstruction and Development/The World Bank. The findings, interpretations, and conclusions expressed in this paper do not necessarily reflect the views of the Executive Directors of The World Bank or the governments they represent. The World Bank does not guarantee the accuracy of the data included in this work.

Country Profile for Timor-Leste was compiled by the Bank's Doing Business Team in mid-2005 using the standard Doing Business methodology. The data were collected during a mission to Timor-Leste in June 2005. The indicators are based on the situation in force as of January 1, 2005. A full description of the Doing Business methodology can be found on the web at [www.doingbusiness.org](http://www.doingbusiness.org).

20. Annex 2 to this report is a presentation of some of the key Doing Business Indicators (DBIs) for Timor-Leste with a selection of comparator countries including other lusophone countries and several small island economies around the world. These charts were prepared using information available in the World Bank's Doing Business database. Annex 2 also includes detailed information on the detailed calculations underlying some of the individual indicators for Timor-Leste. These findings were presented and discussed in Timor-Leste in October 2005 at a meeting attended by a cross section of stakeholders including government ministers and officials, donors, business associations, the media, private entrepreneurs, academics and parliamentarians.

21. The Appendix to this report maps the private sector in terms of geographical location, employment and investment levels. Specifically, the Appendix examines the characteristics of formal firms - those that comply with business regulation - and of informal firms in Timor-Leste. Such information, together with the proposed guidelines presented in this report, will help the Government reform the business regulatory environment in a way that is conducive for business development.

## **B. Overview of the Laws and Regulations in Force**

22. Annex 1 is a summary of the status of the legal and regulatory instruments either in existence or needed to provide a basic enabling environment for business in Timor-Leste. It indicates the progress to date as well as the gaps. The actual status of the legal and regulatory framework in Timor-Leste reflects the recent history of the country. UN Security Council Resolution 1272 of 1999 established the UN Transitional Administration for East Timor (UNTAET) and gave it the power to exercise all legislative authority. UNTAET's first regulation established that Indonesian Law would continue to apply except where it conflicted with international human rights standards and until it was replaced by new regulations issued either by UNTAET or by a newly established independent government.

23. For readers more familiar with the Common Law tradition it is worth mentioning that Timor-Leste has opted for a civil law system which, unlike common law, requires much more detailed specification of the rules - hence the importance given in this report to laws and rules. However it is also worth underlining that many countries with civil law traditions, including lusophone countries such as Macao and Brazil, are reaping the benefits of mixing elements of common law into their legislative framework and such an approach could also produce many benefits for Timor-Leste.

24. Despite the enormity of the work load facing the new Timorese Government and Parliament, there has been substantial progress on legislation affecting the business environment. Regulations on tax and customs, border control and immigration, business registration, banking, payments and foreign exchange were issued early on in the

UNTAET regime. The independent Government has approved a Law on Commercial Societies, an Insurance Law, Laws on Foreign and Domestic Investment, a Notary Decree Law, a Commercial Registry Decree Code and a Fisheries Decree Law. But there still remain key gaps, notably in land law, land and property registration, leasing and collateral, a commercial code, bankruptcy, business licensing, accounting and auditing standards, competition policy, intellectual property rights, social security, chamber of commerce and regulations governing the environment and key sectors such as tourism, manufacturing and trade.

25. In practice since 1999 there has been a growing disconnect between Indonesian Law and practice, and as new Laws and regulations have been passed, first by UNTAET and then by the Timor-Leste Government, the legal and regulatory framework has steadily moved away from the Indonesian model. During this process ambiguities and inconsistencies have arisen. These have been compounded by differences in the languages of some of the documents and by lack of capacity in the Ministries and agencies whose job it is to administer the laws and regulations. Access by Timorese businessmen to Indonesian legal expertise has also been extremely limited. There have been no readily available copies of Indonesian Laws and no translations. Furthermore an overburdened court system has been unable to play any effective role in contract enforcement or commercial dispute resolution.

26. One example of the outcome of this situation is the application of the tax regime which depends on a combination of UNTAET regulations, Government circulars and other regulations, some in English, some in Portuguese. Another example is the requirement in the Law on Commercial Societies for accounts to be prepared and audited on an annual basis. Yet there is no approved accounting system nor any certification of accountants and auditors in Timor-Leste. There are substantial gaps in the regulatory framework governing tourism, an industry recognized as having significant job creation potential. There is no effective regulation of the forestry and food processing industries. There are no labor regulations other than a few issued during the UN Transitional Administration. Quality control in the coffee industry, one of Timor-Leste's major export earners, is not effectively regulated.

27. Discussions with existing and potential entrepreneurs, both foreign and local, show that the partial legal and regulatory framework that has been created to date may, in the short term, have led to deterioration in the business environment when compared to the situation which applied just after the departure of Indonesia. Several businesses report that at that time it was possible to start up business operations and make investments with some confidence based on assurances and informal approvals from Ministers and other decision makers. The often ambiguous and incomplete framework now in place has added to the complexities and uncertainties. There is little doubt that this is having an adverse effect on the level of investment and job creation in Timor-Leste and will continue to do so until the basic elements of a framework are completed and institutions are equipped to administer them with some degree of certainty and predictability.

28. The Doing Business findings (Annex 2) confirm many of the conclusions presented elsewhere in this report. Not surprisingly Timor-Leste does not score well on many of the indicators, coming 142 out of 155 countries on the composite indicator. In

terms of contract enforcement Timor-Leste was the world's worst performer according to the DBIs. The main reason for the poor overall performance is the lack of a complete or functioning legal and regulatory framework and a lack of mechanisms for enforcing contracts or insolvency, all of which shortcomings are captured by the DBIs. The country is still in the process of creating its legal and regulatory framework from a zero base. The Commercial Societies Law is yet to come fully into effect due to lack of regulations, the Investment Laws and Regulations were only approved this year, too late for this to be reflected in this year's indicators, there are no formal bankruptcy processes or mechanisms for protecting minority investors, and, because of lack of capacity and a focus on criminal cases, the court system is severely backlogged and in practice has been unavailable to deal with commercial contract enforcement since 1999.

29. However, despite all the gaps and weaknesses in the legal and institutional framework, Timor-Leste performs relatively well on some of the DBIs when compared with some other lusophone countries, including Brazil, and in a few cases even with Portugal. This relatively favorable performance includes the indicators of the time to start a business, rigidity of employment, tax, and ease of importing and exporting. However when compared with other countries in South East Asia and around the world, even on these indicators, Timor-Leste has a long way to go. This suggests that while maintaining its lusophone tradition, to take advantage of international best practice, Timor-Leste should also consider adapting models used in non-lusophone countries or in those lusophone countries that have already incorporated the best practices of other models into their own.

### **C. Investment Laws**

30. Important steps have been taken to create a legal framework dealing specifically with investments. Following a lengthy preparation and consultation process, two laws were approved by the Council of Ministers in February 2005 and then by the Parliament in May 2005. The laws, one on Domestic Investment and one on External Investment, were promulgated by the President and then published and passed into law on June 7, 2005. These Laws were quickly followed by two sets of regulations approved by the Council of Ministers and published as decrees on June 27, 2005. The Laws and Regulations make provision for the creation of two institutions to support investment – Trade Invest Timor-Leste for foreign investment and a domestic enterprise development agency, IADE, for domestic investment. These institutions will act as facilitators, if not one stop shops, for investors.

31. The provisions of the two Laws are similar. They both include tax deductions for Timorese workers employed with differential duration of the incentives depending on where in the country the investment is located. They provide for duty and sales tax exemptions on capital goods, raw materials for manufacturing, semi-finished goods, components and spare parts for goods or services and fuel used for power generation. The main differences between the laws are in the levels of incentives provided and the incentive eligibility thresholds for foreign and local investors. To benefit from the incentives the minimum foreign investment amount is \$100,000 and the tax credit is \$300 per worker employed for duration of five years in Dili, 7 years in rural areas and 10 years in Oecusse or Atauro. Reinvested profits are not taxed. Domestic investors have a much

lower threshold of \$5,000. These laws are not perfect and there remain ambiguities and room for interpretation in a number of their articles. However, in an environment where uncertainty and ambiguity have been the norm, private companies generally report that they do appreciate the added degree of certainty that these laws now provide.

32. Some commentators have pointed out areas of possible weakness in the Laws, which include:

- Having two separate investment laws, one for foreigners and one for locals, gives a negative message to potential foreign investors.
- The proposed tax exemptions could prove costly to the budget without providing equivalent benefits in terms of additional investment flows
- The laws provide for incentives depending on the number of employees in the enterprises. This discriminates against smaller enterprises and could also lead to firms overstating the number of their employees
- The complexities in the tax incentives will create difficulties in monitoring and enforcement for an already overburdened administration, and will open the door to possible abuses and corruption
- The a lack of clarity in some of the articles leaves room for arbitrary interpretation by officials

33. These criticisms appear to have some basis, particularly the concerns on administrative complexity in an environment where capacity is already stretched to the limit. Implementation experience will reveal whether they turn out to become problems in reality.

34. As with other aspects of the legal and regulatory framework the weakest link with the investment laws is likely to be implementation capacity. However Government has already made a good start by creating the investment and export promotion agency TITL and after initial delays and logistical start up problems, TITL now has its own office and is staffing up. The domestic investment promotion agency IADE will take over the assets and staff of the SEP II supported Business Development Centers (BDCs).

35. TITL was set up on the basis of Government Decree Number 7/2005 of July 27, 2005 and is now an autonomous body. As per Article 3 of the Decree, the duty of TITL is to *“promote, coordinate, facilitate, register and follow up on foreign investment and exports, as well as centralize the necessary administrative procedures for authorizing and registering foreign investments within the framework of laws, incentives and benefits provided in the Foreign Investment Law”*. In addition, the government’s commitment to sustain TITL is described in Article 4: *“The government will attribute funds, through the regular government budget, in the form of global budget, aimed at covering the expenses of establishment and operation of TradeInvest Timor-Leste”*.

36. TITL has already received a number of enquiries for assistance from overseas and several letters of intent have been signed with potential foreign investors. To date a fisheries project and an oil refinery have been approved, and five proposals are under consideration. TITL plans to establish in 2006 an External Investment Commission to process documents and proposals from investors who may want to invest in Timor-Leste. TITL will also set up a system to monitor foreign investment inflows.

37. The creation and initial operation of TITL was financed by the World Bank supported SEP II Project and donor funding from other sources is likely to continue when this SEP II component closes in mid-2006. The setting up of TITL was hampered by logistical problems and delays, which included uncertainties because of delays in processing the enabling legislation, and delays in recruiting staff and in finding office accommodation. Some of these problems still persist. The formation of the Advisory Board for TITL remains to be completed, as does the hiring of the National CEO. However, under the leadership of the International CEO, TITL has recently initiated several promotional activities such as a one week comparative study in Cape-Verde led by Prime Minister Mari Alkatiri. Two staff participated in exhibitions on trade and investment for two weeks in Macau and one week in Sydney. The key launch event of TITL was the 'International Conference on Investment in Timor-Leste' held in Dili on November 28-29, 2005. This was attended by range of existing and potential investors, and featured sessions explaining the foreign investment law as well as the general investment climate in Timor-Leste. TITL moved to a new building, Memorial Hall, on December 8, 2005.

38. The Domestic Enterprise Development Agency IADE was created as a legal entity at the same time as TITL, under the mandate of the Domestic Investment Law. A decision was subsequently taken for IADE to take over the operations of the SEP II supported Business Development Center network, including its four district centers outside Dili. The main functional difference between the present BDCs and IADE is that licensing functions will be included in IADE and in the districts also business registration. BDC staff will not be automatically absorbed into IADE; instead separate civil service recruitment will take place. This suggests that there may be a risk of discontinuities in staff and operations between the BDCs and IADE when the takeover takes place in mid-2006. Government has already had discussions with the United States' Millennium Challenge Account (MCA) and with other donors to assure funding continuity when SEP II funding closes in mid-2006.

39. As with TITL there were many delays in getting the BDC network up and running, however over the last eighteen months the BDCs have been a success story in terms of numbers of people trained and in their degree of outreach to remote areas in the districts. There remain questions about the targeting of the training, on whether or not it has led to the creation of more jobs, and how the training momentum will be maintained as the organization is transformed into IADE.

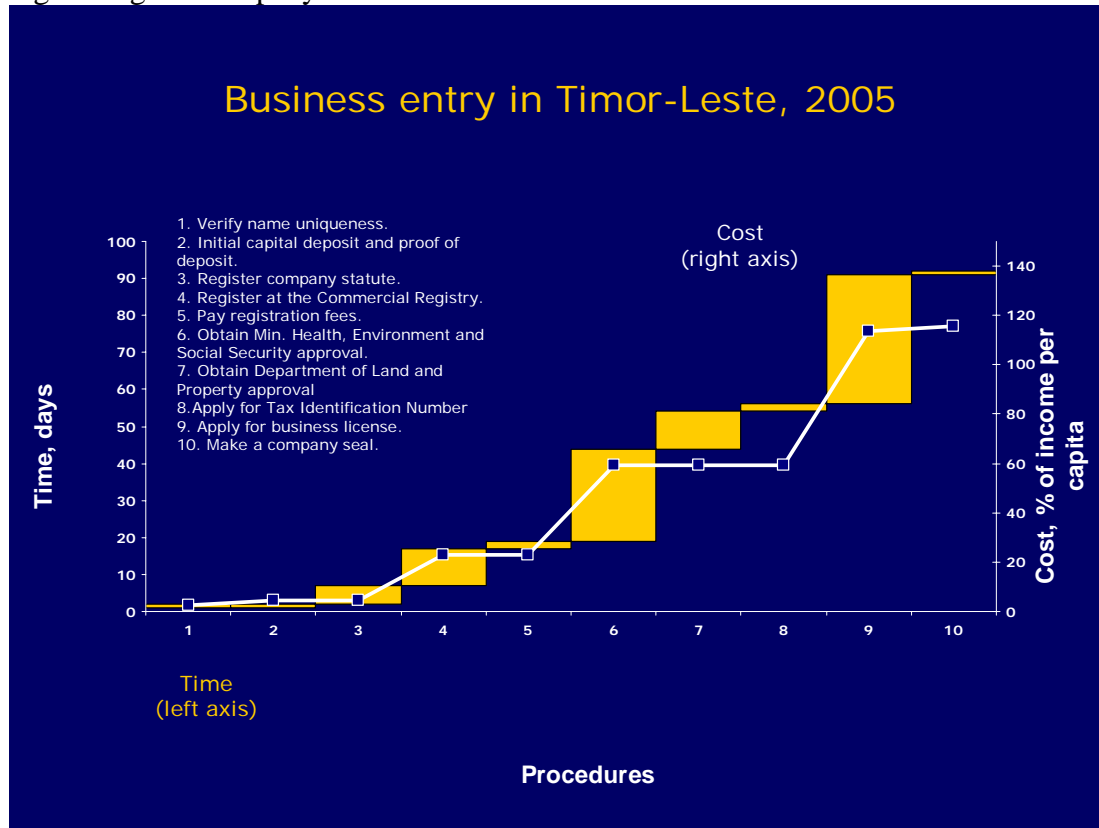
#### **D. Starting a Business and Company Registration**

40. In a positive step, the Ministry of Development has responded over recent months to the concerns of the business community by extending the mandate of the four Business Development Centers (BDCs) outside Dili to take on the function of business registration for local businesses. The Ministry of Development and the Business Registration Unit say that attempts are being made to reduce the business registration processing time at the BRU pending its transfer to the MJ. To be effective these efforts will need to be accompanied by additional training of BRU personnel and the preparation of easy to understand documentation which clarifies the process and makes it transparent to all.



Meanwhile the MJ needs urgently to develop its capacity to handle business registration, in preparation for its pending assumption of responsibility for this function from MD.

41. The time it takes to start a business in Timor-Leste has been near the top of the list of problems cited by both foreign and local business people for several years. Timor-Leste does outperform some lusophone countries and Indonesia on the composite Ease of Doing Business Indicator (Annex 2). But the country's performance is far below international best practice, with an international ranking of 141 out of 155. The processes to start a business are shown graphically in the chart below. The most time consuming processes noted are in obtaining operating licenses, obtaining health, environment and social security approvals, obtaining Department of Land and Property approval, and in registering the company.



42. The DBIs also measure in detail and compare across countries the processes needed to build a standard warehouse. For Timor-Leste some 24 steps are needed. The lengthiest procedures are those required to obtain a water and sewer connection (45 days), obtain an electrical power connection (40 days), obtain and environmental impact assessment (20 days), obtain approval from the water and sanitation office (20 days), obtain a building permit (10 days), obtain a phone connection (10 days) and obtain completion approval from the engineering department (10 days).

43. Businesses have complained of the inconvenience of having only one location for business registration, in Dili, that registration has to be renewed on an annual basis, that staff of the Business Registration Unit appears to be untrained and uncertain of the rules governing the process, and that service is generally bad. The Law on Commercial Societies (promulgated in April 2004) and its implementing regulations provide for Business Registration to be handled by the Ministry of Justice and for companies to be

set up in limited liability form. In practice the Business Registration Unit was established under the UNTAET regulation 2000/4, which does not allow for the creation of limited liability companies. The BRU is still operating within the Department of Trade and Industry, which was transferred during the Government reorganization of mid-2005 to the new Ministry of Development (MD), but is being moved to the Ministry of Justice. A Decree on a Commercial Registry Code was approved by the Council of Ministers in January 2006, and is awaiting promulgation by the President. The transfer of the registration to the MJ is to be completed when the law comes into effect.

44. The result is that the Commercial Societies Law and UNTAET regulation sometimes appear to be operating in parallel and this has been a source of uncertainty for businesses. In fact some investors have registered their companies as corporate enterprises under the UNTAET rules, while defining them as LLCs in the company statutes to comply with the Commercial Societies Law. The new Decree law enables the registration of limited liability companies.

45. Countries that have made the most progress in simplifying business start-ups have combined and minimized the number of steps, removed the requirements for annual renewal and introduced standard forms, maximizing automaticity and the use of Information and Communications Technology (ICT). Making a small number of changes can have a very large impact. Removing the requirement for annual renewal is already a step in the right direction. Incorporating four additional suggested amendments to the laws would likely improve Timor-Leste's ranking by 98 places (from 141<sup>st</sup> to 43<sup>rd</sup>) on the Ease of Starting a Business index. Such improvements would be appropriate for Timor-Leste and could have a positive impact on company start-ups and thereby on investment and creation of employment.

46. The following changes to the proposed law would further streamline business startup. First, the law could allow for procedure 1 (check uniqueness of name) to be completed jointly with business registration at the commercial registry. Second, the publication in the official gazette could be eliminated. Third, the act to legalize the company books could be abolished. This is a rare procedure among the countries in the DBI sample and some, like Portugal, are eliminating it this year. One important issue is the minimum capital requirement of USD 5,000 for limited liability companies. This requirement is prescribed in the Commercial Companies Law and implemented through the Commercial Registry Code and a significant obstacle to entry.

47. We recommend considering these changes, which would go a long way towards easing business entry. Although it is important to simplify the procedures at the registry, the reform will not be complete without addressing the rest of the business start up process. In particular, Government may want to consider simplifying the business licensing and health and environment approvals and probably restrict them to certain industries. We also recommend that builders and other investors be given step by step procedure charts. Risk based inspections, which use a sampling approach rather than inspecting every case in detail, would be a cost effective way of dealing with the capacity constraints in Timor-Leste.

## **E. Land and Property Rights**

48. The Government has been working since independence on the creation of a legal and regulatory framework governing land and property ownership, with substantial support from the USAID Land Law Project since 2003. The work done to date includes the preparation of a set of policy recommendations on leasing of state property, land dispute mediation, land rights and title restitution, and analysis on the Dili rental market and State agricultural land. An Immovable Property (umbrella) Law was promulgated (Law 01/2003), and Laws have been prepared on the Leasing of State Property (promulgated December 2004), Leasing between private parties (passed by Parliament May 2005) Land Dispute Mediation Decree-Law (draft with Ministry of Justice), Property System, Land Transfer and Registration, Pre-Existing Land Rights and Title Restitution (Draft), and Decree-Law for Control of Illegal Construction and Informal Settlements (Draft). Regulations for the promulgated laws have been drafted as have operational manuals and processes.

49. However the absence of a land regulation, registration and titling system in Timor-Leste continues to cause uncertainty over property rights and is one of the major constraints in the business environment. Lack of land title makes it very difficult to secure collateral for bank loans for personal or business purposes. Timor-Leste ranks 125 worldwide on the Doing Business Property Registration indicator, mainly because of the complexity and incompleteness of the legal and regulatory framework and the lack of capacity in the Land and Property Department. Experience around the world shows the major benefits of formalizing title for getting credit, for investing and for growth. This is a critical constraint which requires addressing as a top priority.

50. Although preparatory work on a land titling system has been underway in Timor-Leste for several years, the requirements are still complex and full implementation will depend on the resolution of conflicts over titles obtained during various periods in Timor-Leste's history. These include traditional land ownership structures dating back centuries, changes effected during the Portuguese and Indonesian occupations, the enforced uprooting of large sections of the population in 1999, and decisions taken during the UN transitional administration and under the rule of the present independent government. These uncertainties can be expected to continue until a new land titling system is fully designed and implemented. This will depend in turn on the completion of a cadastre, but progress on this so far has been very limited.

51. Completion of this complex framework has been subject to long delays, because of lack of capacity combined with slow decision making and the need to accommodate the different views of the many stakeholders. Three draft laws remain to be approved. The Directorate of Land and Property has been given full responsibility for land titling by Government but its capacity is limited and until the Pre-existing Land Rights and Title Restitution Law is approved it will not have sufficient jurisdictional authority to do its job.

52. Importantly, as with other aspects of the legal and regulatory framework, even when the legal and regulatory framework is complete, until the court system is functional,

civil cases such as land disputes and contract enforcement are unlikely to be given priority over criminal cases by the court system.

## **F. Other Laws and Regulations**

53. As shown in Annex 1, many sectors and aspects of business activity remain unregulated. While it is true that in some common law countries licenses are not required for all activities, these countries normally compensate with a grievance and insurance system which protects the consumers and the public, a system which does not exist in Timor-Leste. The pharmaceutical sectors have a functional regulatory framework already in place. Coffee producers complain about the absence of a regulatory regime or of an official certification process for organic Timorese coffee, which can command a premium price on the world market. As in other premium coffee producing countries, the creation and enforcement of such a system would ensure better prices, more investment, more jobs and more rural income. In a positive step in December 2005 Government approved a new Decree Law on Procurement.

54. The absence of labor and social security regulation on the one hand reduces the regulatory burden on businesses, but on the other creates uncertainty in the minds of investors as to what future regulation may be adopted. Accounting and audit standards and the accounting and legal professions remain unregulated.

55. Not surprisingly Timor-Leste has a very low score on the Doing Business Indicator for Getting Credit, ranking 150 worldwide. The indicator measures information availability on borrowers and the ability to secure collateral. The availability of information is likely to improve substantially in the short to medium term as the Banking and Payments Authority will follow the lead taken by other lusophone countries in creating a publicly managed credit registry over the coming twelve months. Securing collateral will take longer and is constrained by the overburdened court system.

### **Creation of a Credit Registry in Timor-Leste**

The Government of Timor-Leste, with support from the World Bank and the donor-funded FIRST Initiative, is investigating the possibility of creating a Credit Registry in Timor-Leste. Such an initiative could enhance the availability of credit by making available to lenders information on the credit history of borrowers and potential borrowers. It could also help develop a credit culture and would be likely to deepen and extend the banking sector. A first phase study completed in early 2006 has confirmed that the concept is workable in the country, that the basic legal framework and information availability would support it, and that the preparation phase should be launched. Commercial banks and other stakeholders have indicated their support for the Registry and for the initial concept that the Banking and Payments Authority would manage the facility. The second phase of this work, detailed design, is expected to be completed in mid-2006.

56. In the financial sector an equipment leasing law would expand the financing options available to businesses and financiers and therefore the availability of credit for

investment and working capital. In the Timorese context a leasing law would also help fill the gap caused by the limitations on collateral for bank credit, while work on the land titling system is completed. There have been plans for several years to prepare a leasing law but little progress to date. Other gaps in commercial legislation such as bankruptcy, competition policy, intellectual property rights and Chamber of Commerce need to be filled but are probably not binding constraints on investment in the short term.

57. Timor-Leste ranks 50 worldwide on the Doing Business Indicators Ease of Hiring and Firing index. As mentioned earlier, the absence of labor regulation means that the regulatory burden is relatively low in terms of ease and cost, although the uncertainty of what future regulations may be implemented is a concern to entrepreneurs. The absence of comprehensive regulation at present gives Timor-Leste the opportunity to take advantage of international best practice in designing its labor code, by keeping it light and easy to administer.

58. On the Doing Business Indicators Protecting Investors index, which measures the effectiveness of corporate governance practices, Timor-Leste ranks 127 worldwide. The lowest score on the components of this index is in the ability of investors to hold directors accountable, to rescind transactions, to obtain information and enforce external reviews of directors' decisions. This is one area where more, rather than less, regulation is better. The biggest payoffs can be obtained by requiring more information on directors' interests and ensuring that there are no loopholes for the requirement that minority investors be consulted for important transactions.

59. With a ranking of 74 worldwide on the Doing Business Trading Across Borders Index, Timor-Leste is one of the more difficult countries among its comparators to import and export. The lusophone countries as a group perform badly on this indicator. The longest procedures for both imports and exports are in concluding the purchase or sales transaction, assembling necessary documents and clearing customs. Action has been taken over the last year to improve the efficiency of customs and the results are beginning to show. The reforms with the best payoff are likely to include electronic filing of documents and full implementation of risk based inspections, as for licensing.

60. The Doing Business Indicator for Paying Taxes measures the amount, number of taxes and time spent in dealing with the tax authorities. Timor-Leste ranks 50 worldwide and scores relatively well on the low number (15) of tax payments required but not so well on the time spent (640 days) and the amount paid (34.9 percent of gross profit). Reforms might include further consolidation in the number of taxes, cutting back on special privileges and simplifying filing requirements.

## **G. Law enforcement, Dispute Resolution and the Court System**

61. Since the events of 1999 the Timor-Leste Court system has been more than fully occupied dealing with criminal cases and has had little or no time for civil cases, although there has been some overall improvement in the functioning of the court system over the last year. Between January and October 2005 only 17 civil cases were tried in the district courts, compared to 337 criminal cases. During the same period the backlog for criminal cases decreased by 29 percent but this has yet to trickle down to the civil cases and over

the same period the backlog for civil cases increased by 39 percent. As of October 2005 the Court of Appeals had a backlog of 54 civil cases compared to 4 criminal cases. All of these civil appeals cases are in the Indonesian language and date from the 2000-2003 period.

62. The court system has suffered from lack of judges, lawyers, clerks, computer equipment, poor records and data management and poor access to information by practitioners or the public. There have been extended periods when the four District Courts were not functioning at all due to absence of judges on training. Communications of decisions between the District Courts and the Court of Appeal have been inadequate. The Supreme Court, provided for in the Constitution, has yet to be established, although for the time being the Court of Appeals is adequately assuming its functions. There have been some positive developments over the last year as the presence of international court personnel has led to improvements in efficiency. For example the Dili District Court had resolved 242 cases by the end of October 2005 compared to 11 in the whole of 2004. And in October and November 2005 the prosecution service saw a reduction in backlog for the first time ever.

63. The legal profession is undeveloped in Timor-Leste. There is as yet no Bar Association although there exist two parallel drafts of a law to create one. In 2005 a decision that all Timorese public sector legal professionals could not practice in Timor-Leste until they completed training, effectively prevented those few lawyers that did exist in Timor-Leste, from practicing in the country. It is expected that these professionals will reenter service on a probationary basis in mid-2006. Meanwhile there are already more than 20 imported lusophone professionals working in the country.

64. In practical terms the court system has been unavailable to deal with either commercial dispute resolution or the enforcement of non-criminal aspects of the legal and regulatory environment affecting private sector activities. Discussions with private investors confirm that they regard the court system as practically non-functional and since legal certainty is one of the major criteria on which investment decisions are made, this weakness is a major deterrent to private investment in the country.

65. Not surprisingly, given the problems with the legal and judicial system described above, Timor-Leste has the lowest score in the world in the Doing Business Indicator for enforcing contracts. There is also no effective bankruptcy mechanism despite the inclusion of some bankruptcy provisions within the Law on Commercial Societies. We recommend that any new bankruptcy law not force closure of viable companies but allow them to continue operation during the bankruptcy process.

66. The long term solutions to these problems will be to build steadily the capacity of the court system and its personnel and systems so that they can effectively deal with criminal cases and with contract enforcement and other civil cases. However, the needs are so urgent that Timor-Leste cannot afford to wait for a long development process to make the court system functional.

67. One solution proposed has been to import more judges and lawyers from overseas, from Indonesia, from Portugal, or from other countries with a lusophone or civil law tradition. Given that Indonesian Law still applies in many cases in Timor-Leste,

that most of the backlog of cases in the Court of Appeal are in the Indonesian language, that most lawyers in Timor-Leste were trained in Indonesian Law, and that there is an extreme shortage of lawyers in Timor-Leste, the decision to exclude the resident Indonesian qualified legal professionals from practicing in the country does seem to have been counterproductive.

68. In many countries alternative dispute resolution (ADR) mechanisms using arbitration and/or mediation have proven to be an effective complement to the court system. They can ease the burden on the courts and deal quickly with less complicated disputes. In countries where the court system is severely burdened they have also worked as a substitute. No such alternative dispute resolution mechanisms have yet been created in Timor-Leste despite the bottlenecks in the court system.

69. ADR could be particularly appropriate for resolution of commercial disputes and contract enforcement in Timor-Leste. It would provide a greater degree of certainty for investors by promoting the application of the rule of law to commercial transactions, and the sanctity of contracts where none exists at present. It could also rapidly achieve acceptance since it would build on and be designed to be compatible with traditional approaches to dispute resolution in the country. Some thought might also be given to designing summary or simplified procedures for dispute resolution. Given the present burden and the backlog in the court system it would make sense for Government to consider these approaches as soon as possible.

## **H. Capacity Limitations**

70. The overriding challenge facing Government in many aspects of development in Timor-Leste is its inherited lack of capacity. Even where laws and regulations exist, there are problems in their application and enforcement. This problem is particularly acute in the business regulatory environment, and seems to be getting worse as more laws and regulations come into force. An important example of this, mentioned above, is the application of the Law on Commercial Societies. Entrepreneurs report that staff in the Business Registration Unit and in the Notary Public's office are, like many of the entrepreneurs themselves, unfamiliar with the provisions of the Law. The end result is an unpredictable and arbitrary situation where on the one hand applications for registration can be approved when requirements are not fully met, or on the other hand not approved when requirements are fully met. This uncertainty over business registration and other regulatory requirements is almost certainly keeping many businesses in the informal sector.

71. Similar problems apply right across the spectrum of business related laws and regulations. The main constraint is the lack of institutional capacity in the agencies responsible for enforcing and administering the laws and rules, particularly a lack of qualified and trained personnel. There is also an acute lack of independent professionals needed to make the system work, including judges, lawyers, notaries, accountants and auditors.

72. Work has started on the development of a professional and responsible civil service. The June 2004 Civil Service Statute and its accompanying codes of ethics and

disciplinary measures set the framework for an honest and responsible public service. Some Ministries have already been taking steps to improve management and accountability but more remains to be done, particularly in terms of strengthening leadership and organizational culture, in decentralizing and devolving responsibility to lower levels in the organization, in motivating civil servants to perform and in holding them accountable for results. Along with strengthening human capacity, work also needs to proceed in improving transparency and equity through better record keeping systems and availability of information.

73. But lack of capacity is a problem throughout the economy, in both public and private sectors. There are many demands for skilled people and this problem will not be resolved overnight. In addition to the obvious and necessary long term steps of completing the legal and regulatory framework, building the civil service, strengthening capacity in key regulatory institutions, and developing professional training and accreditation, it would be logical to seek solutions which accept and work with the existing Timorese reality, and minimize the impact of existing low capacity.

74. We recommend that the emphasis in drafting Laws and regulations be on keeping them as simple as possible, minimizing the number of approvals required, and making approvals automatic where possible. Legal and regulatory simplicity benefits the business environment even in the most developed economies which do not have the same capacity constraints as Timor-Leste. Its advantages in Timor-Leste would be even more marked. Innovative use of information and communications technologies (ICTs) can also reduce the administrative and communications burden on civil servants and on the system in general by allowing electronic filing, by making decisions automatic, by avoiding the need for individuals to travel from remote areas to complete forms or access information. It would help if the provisions of the laws and rules that exist were explained in layman's terms and published and made widely available to civil servants, businesses and the public in hard copy and via the internet. The complex procedures for granting some licenses, e.g. construction licenses as described in Annex 2, could be presented in chart form, until such time Government finds it appropriate to eliminate the need for licensing. Civil Servants involved in interfacing with the private sector could be given training in the special requirements of facilitating and regulating businesses. These changes will require a strong leadership and vision from above.

75. Alternative dispute resolution mechanisms are an option worth considering, to ease the burden on the court system. Simplified summary dispute resolution procedures could also be introduced. Where possible, the skills and resources of the private sector could be brought to bear to support Government through public private partnerships and consultative mechanisms (see below). This can include help in preparing and drafting the laws and regulations, as well as self-regulation in appropriate cases. We recommend that special consideration be given to temporarily importing necessary legal and accounting skills to overcome the capacity crisis in the business regulatory environment.

## **I. Interface Between the Public and Private Sectors**

76. Government has taken note and begun acting on the often voiced views of Timorese business people, as well as foreign investors based in Timor-Leste, that there



has not been enough consultation between Government and the private sector. These concerns has extended to the processes of drafting laws and regulations and to a host of problems at the interface between private entrepreneurs and the public sector institutions that are intended to support or regulate their activities. Problem areas frequently cited by entrepreneurs include customs and tax administration, registration and licensing, land and property administration and procurement. The latter will become increasingly important where an increasing government budget is likely to be the major source of private sector growth in the foreseeable future. Our discussions with the private sector leave little doubt that problems at the public/private interface have contributed to reluctance on the part of entrepreneurs to invest.

77. Such complaints are not unique to Timor-Leste. To deal with them in other countries, governments have set up formal consultative mechanisms to increase the involvement of the private sector in the process of improving the business environment. These mechanisms have improved the quality of the regulatory environment by involving the main “consumers” of the regulatory environment in its design and improvement. In the Timorese context mechanisms such as these offer the possibility of helping create and maintain a regulatory framework that promotes competitive business investment and operations, rather than hinders them. They could also harness the energies and resources available in the private sector to ease the burden on government in working on improving its business regulatory environment.

78. The Timor-Leste Government took the first formal steps to improve consultation with the private sector when it organized and held its first Business Government Dialogue plenary meeting in June 2005, organized by the Ministry of Development, chaired by the Prime Minister and supported by the Bank’s SEP II Project. This meeting followed a series of local meetings between government and business people in major centers around the country, and which are still continuing. The second plenary session in March 2006 was attended by a large number of private entrepreneurs, cooperatives, associations and some 40 individuals from government, foundations, international agencies and the media.

79. The second session created two public/private working groups, one focusing on business registration, and the other focusing on translation and dissemination of laws and land legislation. Attendees at both plenary sessions reported that the discussions were very productive, that the working groups did go beyond generalities and did fully explore the details of the subject matter, and the two working groups created at the second plenary are currently developing an action plan for substantive work.

80. Recommendations were made to follow up in the following areas:

- Reduce the time needed to register a business, and create local registration centers
- Create a law for the formalization of small traders and micro-businesses
- Accelerate the approval and implementation of the Law on Land and Property, to enable the acquisition of title
- Disseminate and clarify existing laws governing private sector activity, especially taxation and business registration, and the penalties applied to those who transgress them
- Improve cooperation between government regulatory agencies

81. Unfortunately the Working Groups from the first plenary did not reconvene after the plenary session, but efforts were resumed at the second plenary, with participants and working groups expressing full commitment to establish an action plan. To be effective the working groups will need to convene in the periods between these sessions and work on the substance of the regulatory drafting and improvements between these sessions. Already Government has responded to the call to improve business registration, creating local business registration facilities at the four Business Development Centers in Baucau, Maliana, Maubisse and Oecusse and a new simplified Commercial Registry Code was approved in January 2006 by the Council of Ministers.

82. The consultative process has been re-energized Government could now use it as a reality check, and to help monitor progress in dealing with the binding constraints to investment. This process would ensure that the scarce resources available to pursue regulatory reform agenda focused on the right priorities. Dedicated analytical work is needed to cover the subject matter selected for action. Future plenary meetings could be even more productive if private sector speakers, rather than Government ministers and officials, were nominated to present on the progress of the working groups and on the key agenda items for discussion. Government might be more effective playing a listening and responding role, rather than dominating the presentations.

83. While there are a number of private sector organizations already in existence in Timor-Leste, many based on sectoral interests, there is also scope for the private sector to become better represented and organized and play a more effective advocacy role. This would facilitate and increase the legitimacy of the public private consultative process.

84. The whole process of public private consultation on the business environment would benefit from the creation of a small secretariat devoted entirely to promoting the business government dialogue, to planning and supporting its work and to keeping track of progress. For maximum effect we recommend that this secretariat be located in a central focal position where it would have access to all public sector agencies, perhaps in the Office of the Prime Minister or in IADE but with close cooperation with TITL and central Government agencies and not limited to the Ministry of Development. The secretariat could manage the completion of analytical work and studies, it would be a focal point for contact with private sector organizations on regulatory and other business environment issues, and could mobilize consulting assistance to help in key areas. Close links with TITL and IADE are needed to draw on their resources as necessary and to take advantage of the contact and feedback that these organizations will have with existing and potential foreign and local investors. Such a secretariat would quite likely attract more than enough donor support.

## **J. The Processes for Drafting Laws and Regulations**

85. The inconsistencies and variations in quality between laws and regulations in Timor-Leste suggest a strong need to improve the processes for drafting and approving legislation and ensuring that the laws are harmonized with each other and reflect established economic policies. International legal consultants have been used to help prepare the legal framework but there is concern that this expertise has not being used to

fullest effect due to fragmentation of effort and lack of direction and coordination. The Cabinet of Ministers has responsibility for screening laws before they are submitted to Cabinet for approval, and the Ministry of Justice also has an approval role as well as a drafting role through its National Directorate for Judicial Assessment and Legislation.

86. Recognizing the problems, Government has also created a Commission on Harmonization under the Secretary of State for the Council of Ministers to ensure legal consistency. Within Parliament there are seven technical committees established to review draft legislation. But despite these efforts, line Ministries and other agencies are involved in legal drafting and it appears that there is a somewhat ad hoc and uncoordinated approach across different agencies. The quality of public and stakeholder consultation on draft laws depends very much on which ministry or organization is sponsoring the draft.

87. The results suggest the need for the creation and staffing or strengthening of an existing office, possibly the office of the Secretary of State for the Council of Ministers, to provide the coordination function, to provide guidance to sector ministries in the drafting of legislation, to ensure that draft laws reflect established economic development policies and priorities and that they are consistent with the constitution and with legislation already in force. To help ensure well functioning business laws and regulations, such an office could also play the important role of screening proposed legislation for its regulatory impact on the business environment. In doing so it would need to work in close consultation with private sector organizations and with whatever mechanism Government might create to institutionalize public private consultation.

88. Given the importance of this coordination function, such an initiative ought to have little difficulty in attracting donor support and ought to be supported by international legal and regulatory expertise.

**Annex 1: The Main Legal and Regulatory Instruments Governing Business Activity in Timor-Leste**

<b>Law or Regulation</b>	<b>Law or Regulation approved</b>	<b>Implementing rules approved</b>	<b>Implementing Agency</b>	<b>Comments</b>
<b>Commercial Legislation</b>				
Commercial Societies.	Law 4/2004 (Apr 21)	X	MD, MJ	Need for harmonization, not fully functional
Commercial Code Register	Decree-Law 2006		MD, MJ	
Cooperatives	Decree-Law 16/2004 (Oct 27)		MD	Not operational
Individual Traders			MD	
Public Notary	Decree-Law 3/2004 (Feb 4)		MJ	Severe capacity constraints
Foreign Investment	Law 5/2005 (Jun 7)	Decrees 6/2005 and 7/2005 Jul 27	PM, TITL	TITL has just begun operations
Domestic Investment	Law 4/2005 (Jun 7)	Decrees 4/2005 and 5/2005 July 27	MD, IADE	IADE will take over the operations of the BDCs
Bankruptcy			MJ	
Competition Policy			MD, MJ	
Intellectual Property Rights	Indonesian Laws 23/1977, 6/1989, 6/1992		MD, MJ	
Associations and Foundations	Decree-Law 5/2005 (Aug 3)		MD, MJ	
Chambers of Commerce			MD, MJ	
Commercial Mediation			MJ	
Bar Association			MJ	

<b>Taxation and Finance</b>				
General taxation	UNTAET regulation 2000/18 (Jul 1), and Directives 2001/1 (Jan 23) and 2001/2 (Mar 31). Law 5/2002 (Sep 20)		MPF	need for harmonization between the rules of UNTAET and other regulations
Tax and Customs	UNTAET Regulation 2000/18 (Jul 1), Directives 2001/1 (Jan 23) and 2001/2 (Mar 31). Law 5/2002 (Sep 20)		MPF	need for harmonization between the rules of UNTAET and other regulations
Taxation for petroleum sector, licenses and bids	Laws 3/2003 and 4/2003 (Jul 1), 8/2005 and 9/2005 (Aug 3), and 13/2005 (Sep 2). Decree-Law 7/2005 (Oct 18)		MPF	
Banking	UNTAET Regulations 2000/5 (Jan 20), 2000/8 (Feb 25) and 2001/30 (Nov 30).	Instructions from BPA	MPF, BPA,	
Collateral, Warranties and Leasing			MJ	Absence of these key instruments is a major constraint to financial sector deepening

Insurance	Law 6/2005 (Jul 6)		BPA	
Accounting and Auditing			MPF	No authorized chart of accounts and no certification of accountants and auditors
<b>Labor and Social Security</b>				
Labor Code			MLS	
Social Security Regime			MLS	
<b>Land</b>				
Leasing of State Property	Law 1/2003 (Mar 10), Decree-Law 19/2004 (Dec 29)		MJ	
Leasing of Land between private parties	Law 12/2005 (Sep 2)		MJ	
Definition of Public Land Ownership			MJ	
Definition of Zones for Industrial, agricultural and urban areas			MJ	
Land Property Register			MJ	Much land legislation already completed or drafted. Key Law awaiting approval by CoM. Severe capacity constraints
<b>Licensing and Certification</b>				
Fisheries	Decree-Law 6/2004 (Apr 21), Decree 5/2004 (Jul 28), Law 12/2004 (Dec 29),	Various implementing instructions	MAFF	

	Decree 2/2005 (Jul 6), Decree 3/2005 (Jul 6), and Decree-Law 4/2005 (Jul 20)			
Customs clearing agents	Decree-Law 15/2005 (Dec 28)		MAFF	
Environment	Indonesian Law 1977/23	Indonesian Regulations 1969/32 and 1993/51	MD	
Land and water transport	Decree-Laws 4/2003 (Mar 10) and 18/2003 (Oct 8)		MTC, PA	
Air transport			CAA	
Port tariffs	Decree-Law 19/2003 (Oct 8)		MTC, PA	
Post and Telecommunications	Decree-Laws 11/2003 (Jul 29) and 17/2004 (Nov 3)		MTC	
Health and pharmaceuticals	Decree-Law 12/2004 (May 26), Law 10/2004 (Oct 6) and Decree-Law 18/2004 (Dec 1)	Various ministerial instructions		
Public works and procurement	Decree-Laws 10/2005, 11/2005 and 12/2005 (Nov 21)		MPW	

## Annex 2: World Bank Doing Business Findings for Timor-Leste and Comparator Countries

### Summary of Indicators–January 2005

Timor L'este

#### Timor L'este

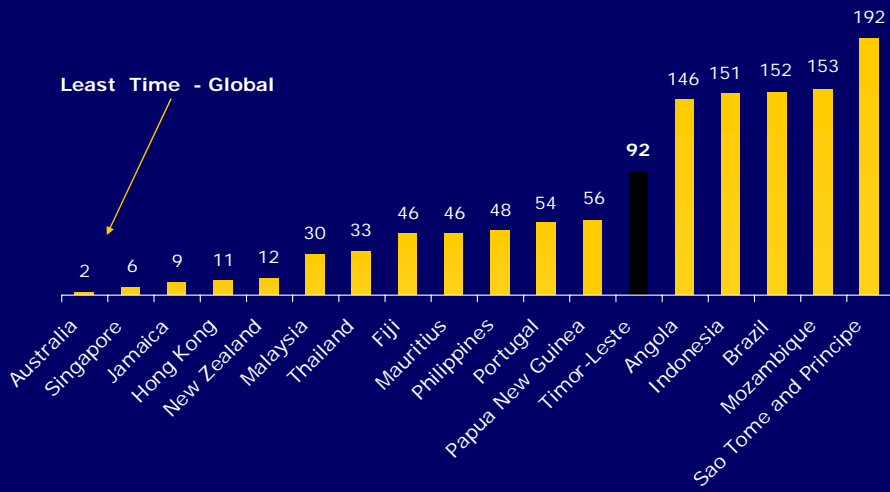
Source: Doing Business Database

Economic Characteristics		Starting a Business	
Income per capita (US\$)	550	Number of procedures	10
Population (millions)	0.9	Time (days)	92
Region	East Asia & Pacific	Cost (% of income per capita)	125.4
Economy	Low income	Minimum capital (% of income per capita)	909.1
Ease of doing business (rank)	142	Ease of starting a business (rank)	141
Hiring and firing workers		Trading Across Borders	
Difficulty of hiring index (0-100)	67	Documents for export (number)	6
Rigidity of hours index (0-100)	20	Signatures for export (number)	9
Difficulty of firing index (0-100)	50	Time for export (days)	32
Rigidity of employment index (0-100)	46	Documents for import (number)	11
Hiring Cost (% of salary)	0	Signature for import (number)	12
Firing costs (weeks of salary)	21.2	Time for import (days)	37
Ease of hiring and firing (rank)	50	Ease of trading across borders (rank)	74
Registering property		Enforcing Contracts	
Procedures (number)	7	Procedures (number)	69
Time (days)	71	Time (days)	990
Cost (% of property value)	10.0	Cost (% of debt)	183.1
Ease of registering property (rank)	125	Ease of enforcing contracts (rank)	155
Dealing with Licenses		Paying Taxes	
Procedures (number)	24	Payments (number)	15
Time (days)	192	Time (hours per year)	640
Cost (% of income per capita)	51.2	Total tax payable (% of gross profit)	34.9
Ease of dealing with licenses (rank)	74	Ease of paying taxes (rank)	55
Protecting investors		Getting Credit	
Extent of disclosure index (0-10)	7	Strength of legal rights index (0-10)	3
Extent of director liability index (0-10)	1	Depth of credit information index (0-6)	0
Ease of shareholder suits index (0-10)	3	Public registry coverage (% of adults)	0.0
Strength of investor protection index (0-10)	3.7	Private bureau coverage (% of adults)	0.0
Ease of protecting investors (rank)	127	Ease of getting credit (rank)	150
Closing a Business			
Time (years)	No practice		
Cost (% of estate)	No practice		
Recovery rate (cents on the dollar)	0.0		
Ease of closing a business (rank)	154		

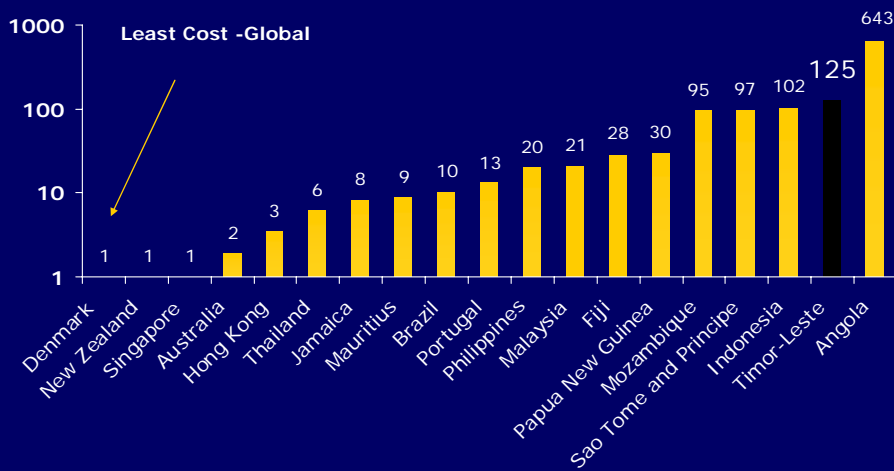
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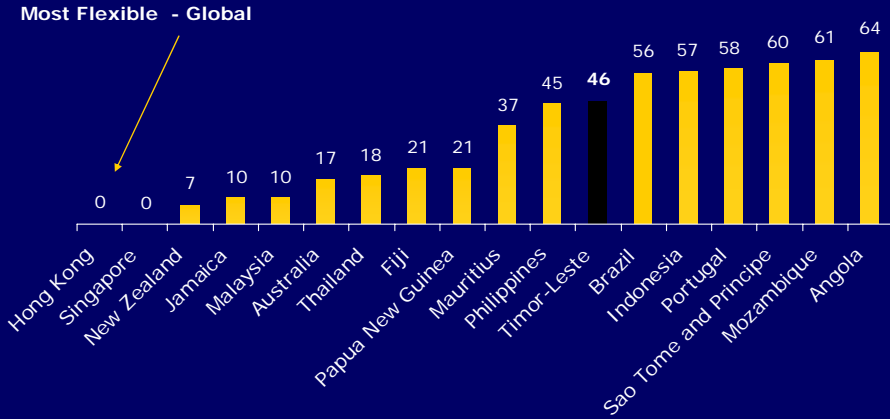
## Time to start a business (days)



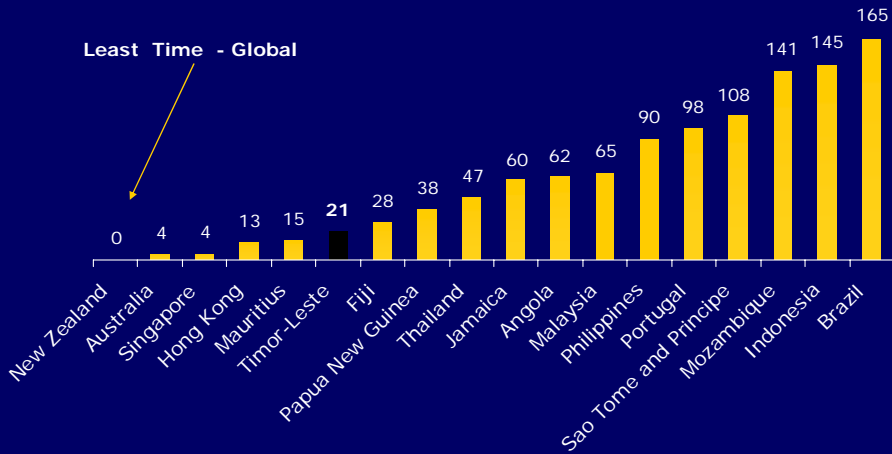
## Cost of starting a business (% income per capita)



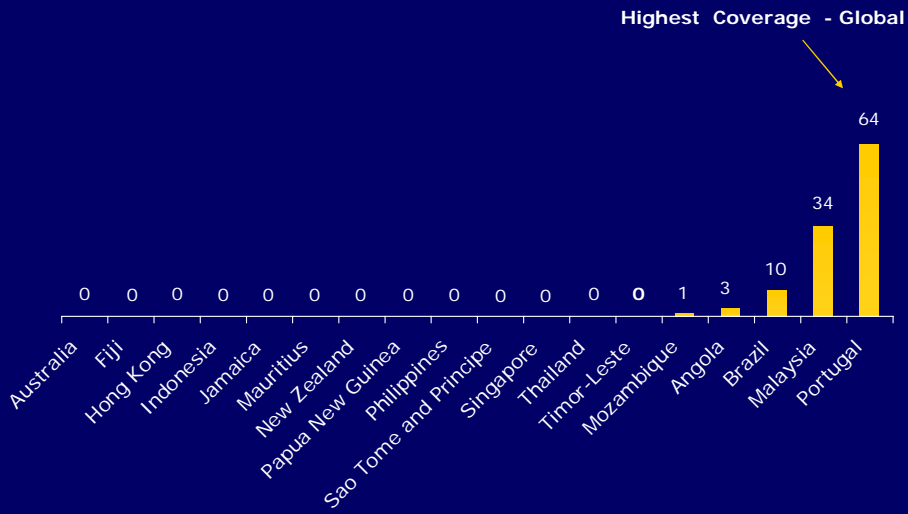
## Rigidity of Employment Index (0-100)



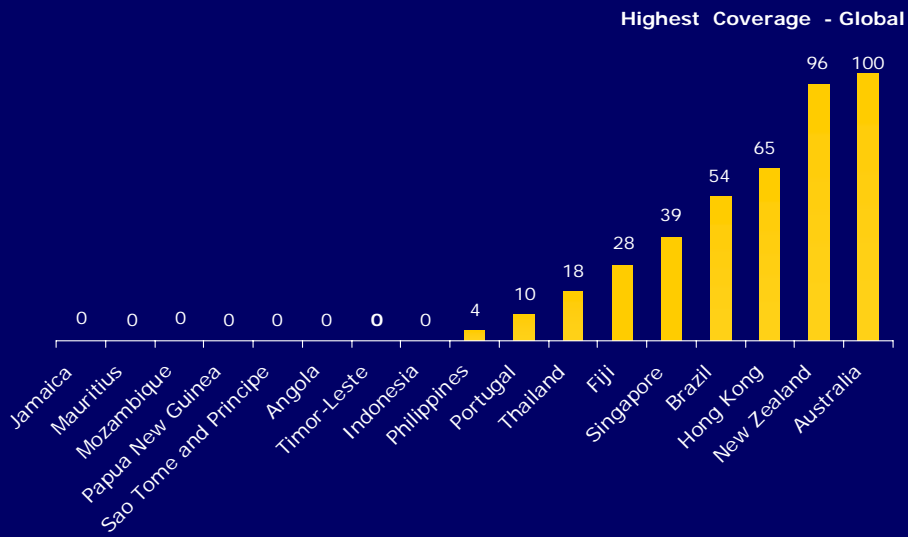
## Cost of Firing (weeks)



## Public Credit Registry Coverage (% adults)

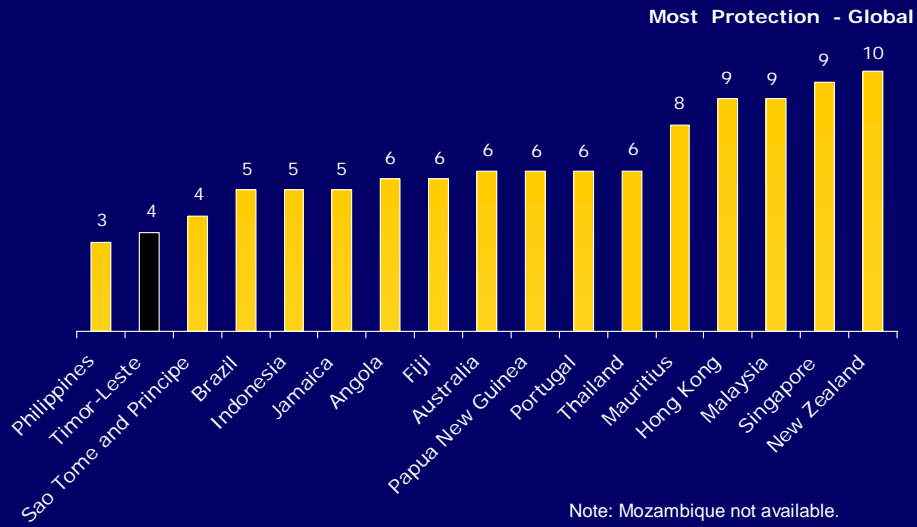


## Private Credit Bureau Coverage (% adults)

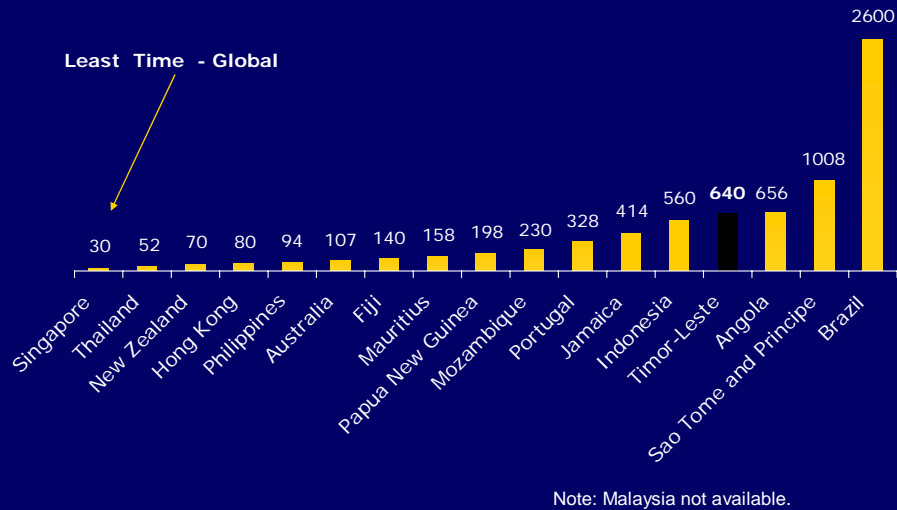


Note: Malaysia not available.

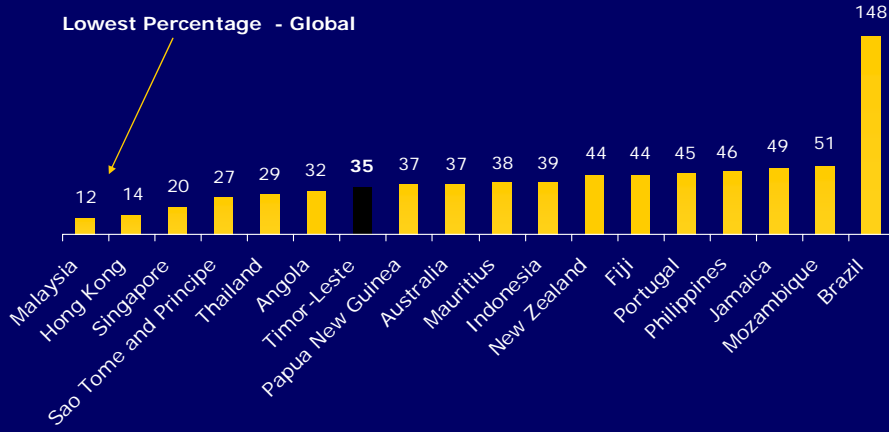
## Protecting Investors Index (0-10)



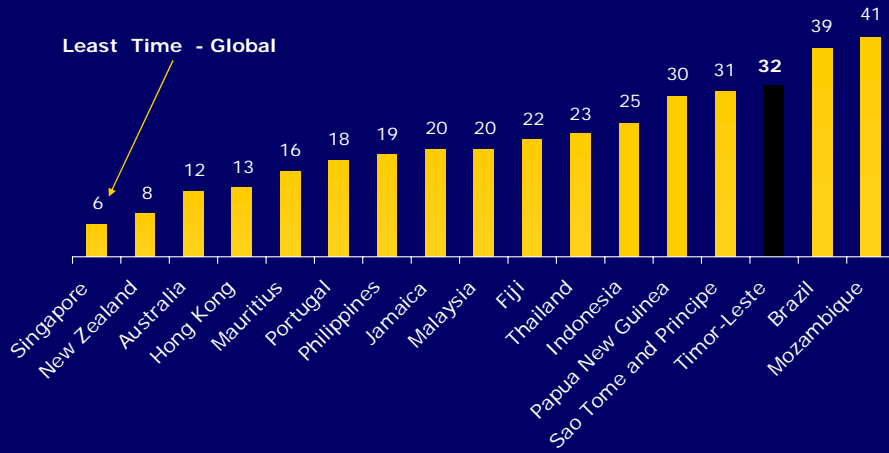
## Paying Taxes- Time (hours)



## Paying Taxes- Total Tax Payable (% of gross profit)

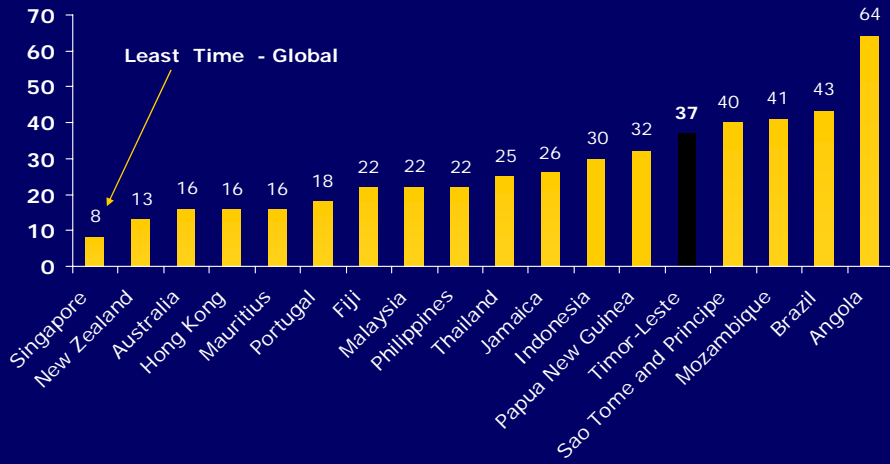


## Time for Exports (days)

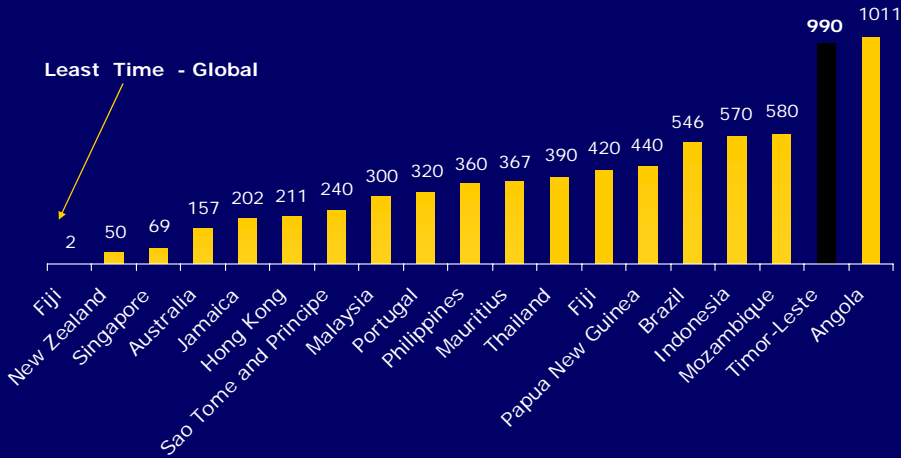


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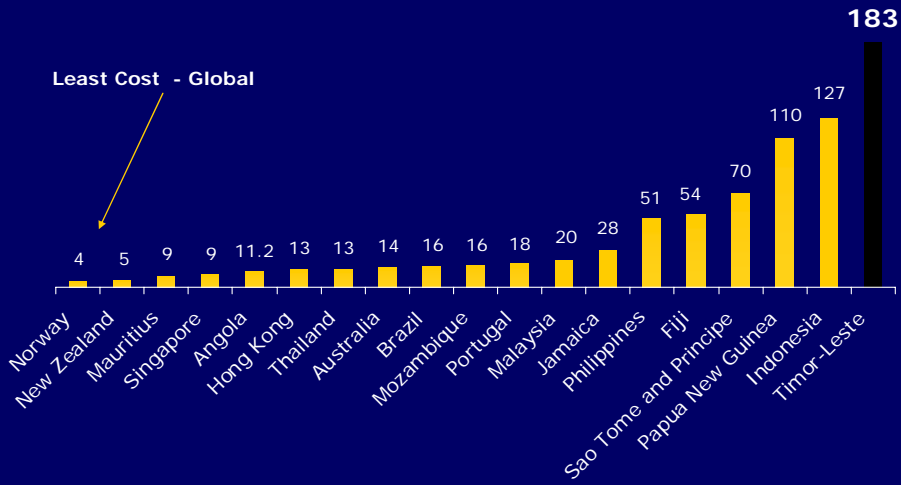
## Time for Imports (days)



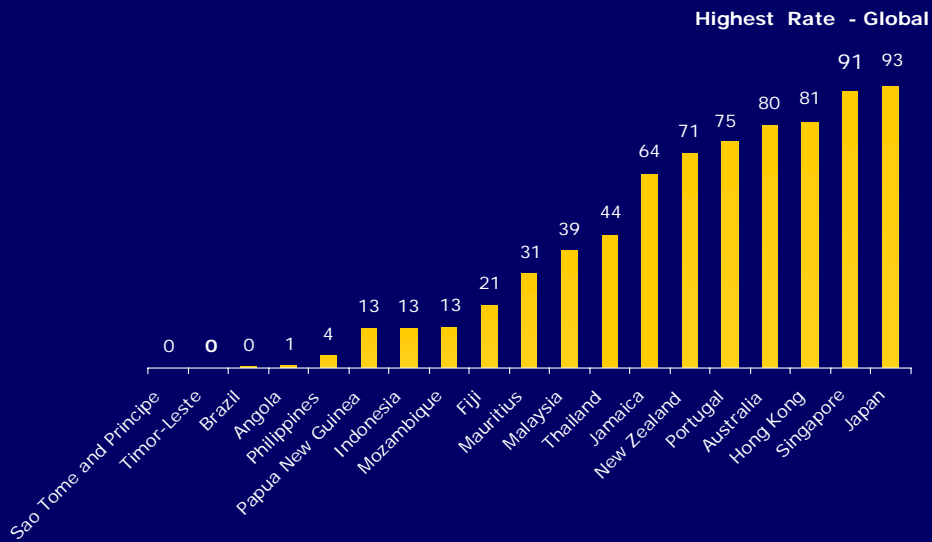
## Contract Enforcement Time (days)



## Contract Enforcement Cost (% of debt)



## Business Closure Recovery Rate (cents on the dollar)



## Starting a Business –Timor Leste (2005)

### STANDARDIZED COMPANY

Legal Form: Private Limited Liability Company  
Minimum capital requirement: US\$ 5,000  
City: Dili

#### Registration Requirements:

<b>Procedure 1. Verify uniqueness of company name</b>
Time to complete: 1 day
Cost to complete: US\$15
Comment:
<b>Procedure 2. Deposit initial capital and obtain deposit evidence</b>
Time to complete: 1 day
Cost to complete: no charge
Comment: About US\$ 10 are required for copies and transport.
<b>Procedure 3. File company statute at the Ministry of Justice</b>
Time to complete: 5 days
Cost to complete: no charge
Comment:
<b>Procedure 4. Register at Commercial Registry - Ministry of Development</b>
Time to complete: 10 days
Cost to complete: US\$100
Comment:
<b>Procedure 5. Pay registration fees</b>
Time to complete: 2 days
Cost to complete: included in procedure 4
Comment: Registration fees are paid at a bank designated by the government (BNU Timor Leste)
<b>Procedure 6. Obtain approval from Ministry of Health, Environment and Social Security Department</b>
Time to complete: 25 days
Cost to complete: US\$200
Comment:
<b>Procedure 7. Obtain approval from Department of Land and Property</b>



Time to complete: 10 days
Cost to complete:
Comment:
<b>Procedure 8. Apply to tax identification number (TIN)</b>
Time to complete: 2 days
Cost to complete: no charge
Comment: The business registration certificate and identification card are required. The TIN is the unique tax identification number for different kinds of taxes. The East Timor Revenue Service (ETRS) will issue a tax payment form. Payments are made to a designated or authorized bank.
<b>Procedure 9. Apply for business license</b>
Time to complete: 35 days
Cost to complete: US\$300
Comment: The license is granted by the appropriate ministry (depending on the sector)
<b>Procedure 10. Make a company seal</b>
Time to complete: 1 day
Cost to complete: US\$10
Comment:

**Warehouse Project – Timor Leste**

*Date: January 2005  
City: Dili*

**Regulatory Requirements and Procedures**

**Procedure 1. Obtain a set of design conditions and plot map from Public Works Office**

**Time to complete:** 2 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 2. Obtain certificate of ownership or use right of land**

**Time to complete:** 7 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 3. Obtain project clearance from the department of health**

**Time to complete:** 2 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 4. Obtain project clearance from department of environment and development**

**Time to complete:** 2 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 5. Confirm project meets zoning requirements**

**Time to complete:** 2 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 6. Obtain road construction division clearance**

**Time to complete:** 2 days

**Cost to complete:** free of charge

<b>Comments:</b>
<b>Procedure 7. Obtain environmental impact assessment</b>
<b>Time to complete:</b> 20 days
<b>Cost to complete:</b> US\$120
<b>Comments:</b>
<b>Procedure 8. Obtain approval from water and sanitation office</b>
<b>Time to complete:</b> 20 days
<b>Cost to complete:</b> free of charge
<b>Comments:</b>
<b>Procedure 9. Obtain approval from Timor Telecom</b>
<b>Time to complete:</b> 4 day
<b>Cost to complete:</b> USD 35
<b>Comments:</b>
<b>Procedure 10. Obtain approval from East Timor Power station</b>
<b>Time to complete:</b> 4 days
<b>Cost to complete:</b> free of charge
<b>Comments:</b>
<b>Procedure 11. Obtain building permit</b>
<b>Time to complete:</b> 10 days
<b>Cost to complete:</b> TPE 30
<b>Comments:</b>
<b>Procedure 12. Notify Municipal authority about beginning of construction</b>
<b>Time to complete:</b> 1 day
<b>Cost to complete:</b> free of charge
<b>Comments:</b>
<b>Procedure 13. Receive excavation work inspection</b>
<b>Time to complete:</b> 1 day
<b>Cost to complete:</b> free of charge
<b>Comments:</b>

**Procedure 14. Receive foundations work inspection**

**Time to complete:** 1 day

**Cost to complete:** free of charge

**Comments:**

**Procedure 15. Receive concrete work inspection**

**Time to complete:** 1 day

**Cost to complete:** free of charge

**Comments:**

**Procedure 16. Receive Labor inspection**

**Time to complete:** 1 day

**Cost to complete:** free of charge

**Comments:**

**Procedure 17. Obtain approval upon completion of project from public works and municipality**

**Time to complete:** 2 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 18. Receive labor inspection (2)**

**Time to complete:** 1 day

**Cost to complete:** free of charge

**Comments:**

**Procedure 19. Receive final inspection**

**Time to complete:** 1 day

**Cost to complete:** free of charge

**Comments:**

**Procedure 20. Obtain water and sewage connection**

**Time to complete:** 45 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 21. Obtain electrical power connection**

**Time to complete:** 40 days

**Cost to complete:** US\$60

**Comments:**

**Procedure 22. Obtain phone connection**

**Time to complete:** 10 days

**Cost to complete:** USD 95

**Comments:**

**Procedure 23. Obtain completion approval from engineering department**

**Time to complete:** 10 days

**Cost to complete:** free of charge

**Comments:**

**Procedure 24. Obtain certificate from electrical inspection**

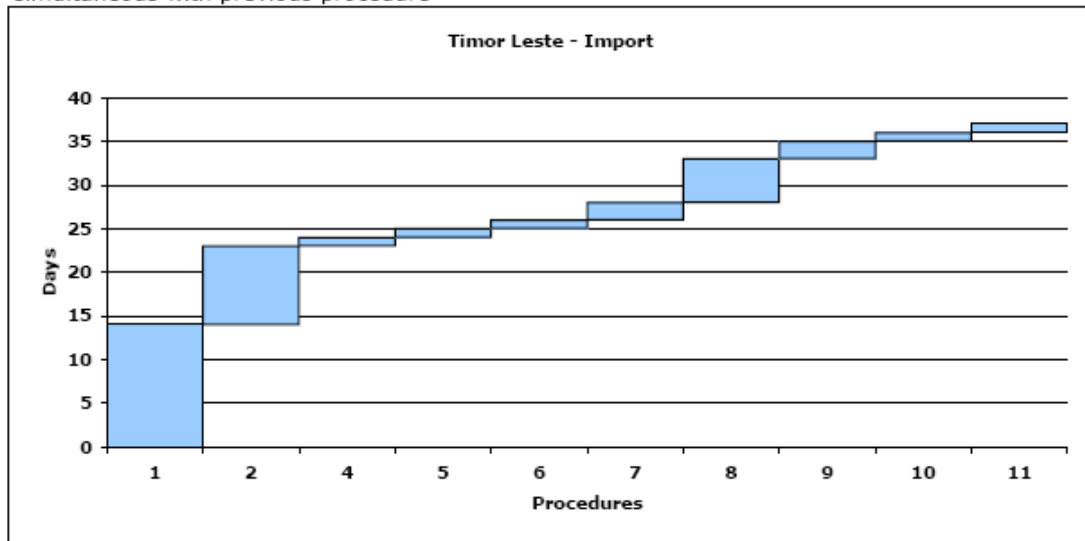
**Time to complete:** 3 days

**Cost to complete:** free of charge

**Comments:**

Timor Leste (2005) - Import		
Nature of Procedure	Number of Procedure	Duration (days)
Conclude purchase	1	14
Assemble and Process documents for Import	2	9
Other pre-arrival processes	3	1
Vessel waiting time to enter berth	4	1
Berthing and Unloading	5	1
Terminal handling Activities	6	2
Customs inspection and clearance	7	5
Technical control, health, quarantine	8	2
Additional processes within the port/ terminal area	9	1
Arrange transport	10	1
Inland transportation to final destination	11 *	1

\*simultaneous with previous procedure

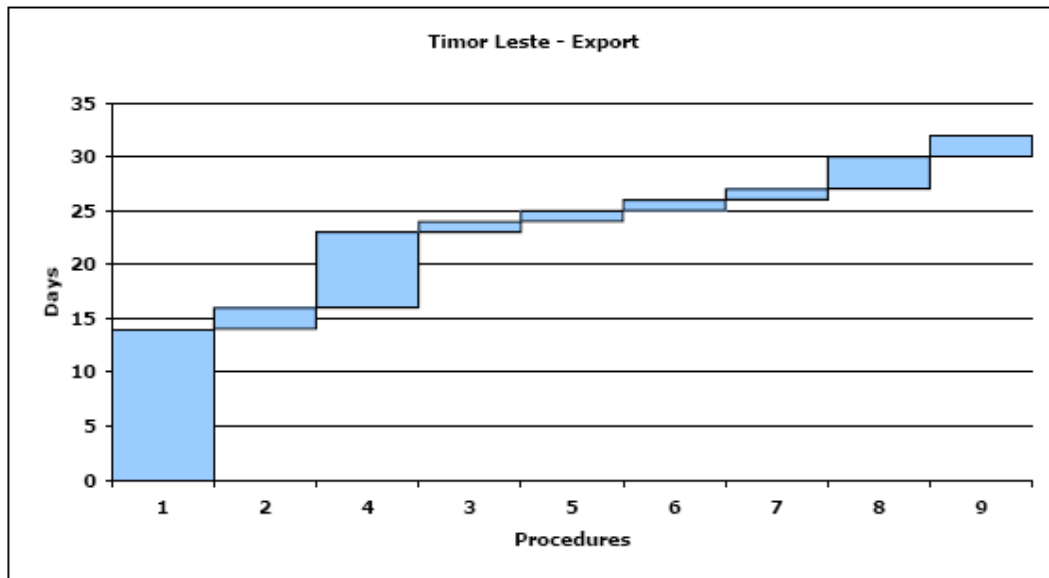


EAST TIMOR - DOCUMENTS	
Import	
Customs Import Declaration Form	
Bill of Lading	
Commercial invoice	
Packing List	
Ship Arrival Notice	
Cargo Manifest	
Stowage Plan	
Collection Order	
Terminal Charges Receipt	
Customs Cargo Release Form	
Equipment Interchange Receipt	

**Timor Leste (2005) - Export**

Nature of Procedure	Number of Procedure	Duration (days)
Conclude sales contract and secure letter of credit	1	14
Packing Goods	2	2
Assemble and process documents	3	7
Arrange transport; waiting for pickup and loading on local carriage	4	1
Inland transportation to Port of departure	5	1
Terminal handling activities	6	1
Waiting for loading container on vessel	7	1
Customs inspection and clearance	8	3
Technical control, health, quarantine	9	2

\*simultaneous with previous procedure



**EAST TIMOR - DOCUMENTS**

Export
Customs Export Declaration Form
Bill of Lading
Commercial invoice
Technical Standard/Health Certificate
Packing List
Equipment Interchange Report

## **Appendix: Timor-Leste Private Sector Mapping**

### **Timor-Leste's business environment is almost entirely made up of small family firms:**

- 80 percent of the workforce is engaged in family farms;
- 33 percent of the population operates entirely outside the money economy;
- 16,000 people enter the workforce annually whereas there are only 40,000 paid workers in the private sector;<sup>2</sup>
- 73 percent of formal urban enterprises<sup>3</sup> and almost all informal urban enterprises<sup>4</sup> have less than 10 workers;<sup>5</sup>
- most enterprises obtain start-up capital from personal or family resources;
- 45 percent of formal and nearly 90 percent of informal urban firms have a turnover of less than USD 5,000 per year;
- foreign investors have shown interest in Timor-Leste but so far only a few investments have materialized and some early entrants have ceased operations.

### **Timor-Leste: Population, employment and economic activity**

The Timor-Leste Census, released in April 2006, reveals a national unemployment rate of 7.2 percent. The unemployment rate is measured as: “proportion of the labor force (excluding the subsistence sector), who are not gainfully employed and are actively looking for work.”<sup>6</sup> Of the estimated 520,265 adults (persons fifteen years or older) in Timor-Leste, 60.2 percent (314,222 adults) are in the labor force. This adult labor force is mainly distributed between subsistence farming (76 percent), self employment<sup>7</sup> (ten percent) and private sector (three percent). These three groups represent 46, six and two percent of the adult population, respectively.

Unemployment rates are considerably higher when they include people who are underemployed, defined as working but unable to attain basic needs for the individual or family, which the Timor-Leste Poverty Assessment does (World Bank, 2003). In urban areas, notably Dili and Baucau, workers face the highest unemployment rates at 20 percent. In rural areas, unemployment is lower, approximately four percent and productivity is low.

### **The formal sector**

There is a lack of up to date and accurate data to fully profile the private sector (formal and informal). As a general picture, Timor-Leste's economy is mainly agrarian and is dominated by self-employed individuals.

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<sup>2</sup> Private sector is defined as “individuals engaged in market-driven, for-profit industries.”

<sup>3</sup> Formal enterprises are defined in this Appendix as those that register at the Business Registration Unit (BRU) in the Ministry of Development.

<sup>4</sup> Informal enterprises are defined as “enterprises engaged in for-profit activities that are not legally registered”

<sup>5</sup> Large enterprises are defined as firms with one hundred or more employees; medium have 20-99; small 6-19; and micro 1-5 employees.

<sup>6</sup> Timor-Leste Census of Population and Housing, (2006), p. 38.

<sup>7</sup> Self-employed is defined as: “individuals who operate their own independent enterprises, with or without hiring employees. Also includes persons engaged independently in trade.”



Formal enterprises are defined in this Appendix as those that register at the Business Registration Unit (BRU) in the Ministry of Development. The mapping of the formal enterprises presented here is therefore based on registrations performed in the BRU since the restoration of independence in 2002 under the previous UNTAET legislation. Annual re-registration under that legislation was mandatory. There is no data available to determine the rate at which businesses cease to exist, but estimates from the BRU suggest that roughly 30 percent of businesses have been renewing their licenses annually. The remaining firms have either ceased operations or have reverted to operate informally. Table A.1 maps the registered businesses per district and sector activity.

**Table A.1: Formal/Registered businesses in Timor-Leste 2002-2006**

Industry/Sector	Dili	Baucau	Lautem	Aileu	Ainaro	Maliana	Suai	Ermera	Liquica	Manatutu	Same	Oecusse	Viqueque
Agriculture & Related	51	14	3	2	5	6	2	17	4	14	3	2	3
Manufacturing	64	4	1	4	3	1	1	9	3	6	2	1	3
Mining/quarrying	1												
Electricity/gas/water	34	2				2		1			1		1
Construction	316	12	3	4	3	4	6	5	4	14	13	15	14
Sale maintenance & repair	91	9	3	5	3	3	3	4	2	9	6	6	3
Wholesale trade	678	22	5	7	12	54	19	3	6	8	18	19	13
Retail	994	90	42	16	7	19	37	129	46	3	3	16	4
Services	146	13	2	2	4	18	64	9	5	7	4	9	7
Hotels, restaurants	134	13	4	11	6	17	7	6	6	9	4	16	6
Transport, storage & communication	191	6	3	3	1	9	3	1	6	4	3	4	2
Finance and business services	58	13	2	4	3	8	11	4	2	7	3	4	5
Health	13	2	1	1	2	1		2	1	1	1	1	1
Education	14	1										1	
Other community service	16	3	4	3	2	2	1	3	4	1	2	4	3
Other	24	6	2	4	6	3	3	7	1	2	4	6	7
<b>Total</b>	<b>2,825</b>	<b>210</b>	<b>75</b>	<b>66</b>	<b>57</b>	<b>147</b>	<b>157</b>	<b>200</b>	<b>90</b>	<b>85</b>	<b>67</b>	<b>104</b>	<b>72</b>

Source: Author's estimates based on BRU data for 2004 and 2005

The Timor-Leste Urban Labor Market Survey (ULMS)<sup>8</sup> conducted in 2004 shows that urban enterprises, even formal ones, are very small establishments. Table A.2 below shows that almost 75 percent of formal enterprises have less than 10 workers, almost twenty percent employ 10-20 persons, and a little over eight percent have more than twenty workers. Thus, most formal enterprises conform to the international definition of micro enterprises and some can be considered small enterprises. Only a very small proportion can be categorized as large or even medium enterprises. The differences in

<sup>8</sup> World Bank, (2005), "Enterprises, Workers and Skills in Urban Timor-Leste"

firm size are also reflected in differences in initial start up capital. According to Conroy (2006), a quarter of formal, and 90 percent of informal enterprises had a startup capital of less than USD 100.

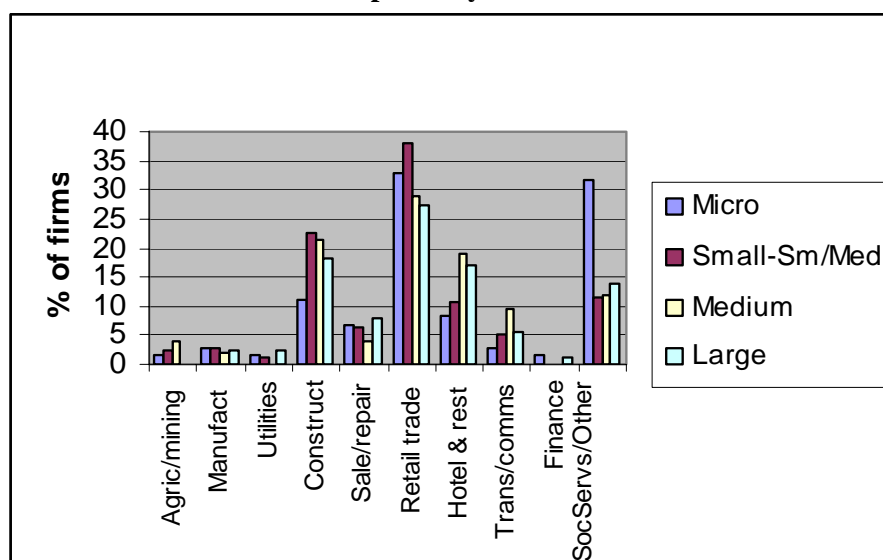
**Table A.2: Distribution of Workers in Formal Enterprises**

Number of Workers	Percent of Formal Enterprises
Less than 10	72.4
10 to 20	19.1
21-50	6.7
51-100	1.4
More than 100	0.4
Total	100

Source: ULMS Urban Enterprises Survey, 2004.

Most formal businesses are concentrated in retail trade, construction and hotel and restaurants (see Table A.3). This sectoral concentration is lower in micro enterprises and large firms than in small and medium enterprises.

**Table A.3: Sectoral Composition of Urban Formal Enterprises by Turnover**



Source: ULMS Urban Enterprise Survey, 2004.

The geographical focus of private sector activity is Dili, with some concentration in other district capitals, notably Baucau. This is the case also for activities in the informal sector.

Most business in Timor-Leste is domestic owned and operated, but there are some foreign owners. Most foreign owners are from other Asian countries and Australia. The magnitude of some of these foreign investments is large relative to the small size of the economy. Since 2002, the largest foreign companies have invested a total of twenty million in companies in various sectors, such as coffee, civil construction, hotels and fisheries. There are no data available on turnover from foreign investments.

## **The informal sector**

While there is little coherent information available on the informal sector, according to the author's observations, informal enterprises are almost entirely small trading ventures – perhaps operating from the home and street stalls like vendors, hawkers and petty repair shops. Surplus crop sales by subsistence farmers, bread baking and selling of tais (traditional woven cloth) also feature as part of informal economic activity, but to a lesser degree.

The Census confirms the significance of subsistence farming, and indirectly indicates that most economic activity and employment occur in informal businesses. Their main characteristics are that they are small operations, family-labor based, and not registered formally. Turnover is likely to be small. The ULMS found that overall, over 85 percent of informal and over 45 percent of formal enterprises have an annual turnover of under USD 5,000.

It is difficult to correctly estimate the total number of people employed in the informal sector because most businesses do not operate on a steady basis and do so in parallel to other family activities. In most informal businesses, the number of workers employed tends to be small and about 50 percent of them have only one worker.<sup>9</sup> There are, however, some cases of informal businesses with more than ten workers.<sup>10</sup>

The Census states the existence of 4,413 street and other informal vendors. This category of business together with small trade, retail, taxis, and subsistence farming are estimated to be the bulk of economic activity across Timor-Leste. Manufacturing is smaller but noteworthy, consisting primarily of bread baking, furniture making and weaving of tais (traditional cloth). A study from 2004 by Timor-Leste Institute for Development Studies (TIDS) estimates there are 107 furniture making shops across the country, with a heavy concentration in Dili. This industry allegedly holds an annual production of 2 million USD, and employs five to ten workers each.

There is a significant amount of “copycat” behavior, whereby small businesses start operations similar to or the same as neighboring operations, rather than based on profit motives. As the owner of the business venture is likely to have other sources of income and a pool of surplus labor to employ in the family, profit is not a crucial factor.

## **The role of business associations and private sector advocacy groups**

The associations are many and play an important advocacy role for larger business in Timor-Leste, but are poorly organized and focus their attention to issues mainly on the basis of members' individual social standing.

There are approximately thirty business associations present in Timor-Leste. Half of these are not active, in the sense of lobbying for particular industry interests or providing

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<sup>9</sup> Conroy, John, (2006), “Timor-Leste: Access to Finance for Investment and Working Capital.”

<sup>10</sup> House, William, ILO Consultant, (2001), “A study of the Potential Contribution of the Micro and Small Enterprise (Informal) Sector to the Economic Development of Timor Loro Sa'e”

services to their members. Some entrepreneurs are members in more than one association, and even in associations that represent industries where those entrepreneurs are not active. In April 2006, a Business Forum was formed at a first General Assembly, where fifteen associations were present. These associations provide some advocacy support to its members, particularly those that are led by prominent business people. Some members may provide unofficial financial support to each other. There are no membership fees except in-kind contributions to events etc, such as for this latest General Assembly.

Table A.4 presents a list of 26 of well known associations, including those that fulfill an advocacy function, as well as the Chamber of Commerce. Six of these associations are estimated to have between 500 and 1,000 members, and the others are significantly smaller. The Chamber is dormant, has no legal status and does not provide services except those already offered by associations.

**Table A.4: Business Associations in Timor-Leste**

No	Name of the Business Association	Contact person (or President)
1	ASSET Loro-Sae (Associação Nacional dos Empresários de Timor-Leste)	Óscar Lima & Francisco Belo
2	ANJET (Associação Nacional dos Jovens Empresários Timorenses)	Jorge Serrano / Rique Nelson
3	UNAPE (União Nacional das Pequenas Empresas)	Francisco da Costa C. Lay
4	ACAIT (Associação Comercial Agrícola e Industrial de Timor)	Paulo Freitas da Silva / Jaime Santos
5	AECCOP (Associação de Empresários de Construção Civil e Obras Públicas)	Júlio Alfaro
6	ABNS (Associação dos Barcos Não-Solas)	António Amaral Ximenes / Mateus Guterres
7	ATNAS (Associação de Transportes Nacionais)	Franquelino da Costa Freitas
8	APETIL	Armando Ximenes
9	ASSEMBA (Associação Empresarial de Baucau)	Abraão Oliveira / Elvino J. Goncalves
10	UNETIL (União Nacional dos Empresários de Timor-Leste)	Ricardo Cardoso Nheu
11	ASSERA (Associação de Empresários Ramelau)	João Neves
12	AVR (Associação dos Veteranos da Resistência)	Aquilino Fraga Guterres / Paulo Assis
13	AER (Associação de Empresários da Resistência)	Aquilino Fraga Guterres
14	CCI (Câmara de Comércio e Indústria/Chamber of Commerce)	Ricardo Cardoso Nheu
15	PUA (Port Users Association)	Flarianando Coimbra / Rafael Ribeiro
16	AEC (Associação dos Empresários Chineses)	Foo Hau Kium (Akam) / Kim Tchia
17	OCEAN (Associação dos Empresários Chineses Timorenses)	Clarissa Lay
18	ACTL (Associação das Carpintarias de Timor-Leste)	Remígio de Jesus Guterres / Artur da Costa
19	Cooperativa Klibur Mata Dalam	João Alves
20	AM	Amaro da Costa
21	KSTL	José da Conceicao
22	Federação das Cooperativas de Crédito Hanai Malu	Bonifácio Correia / Raimundo da Cruz
23	ASSELIC (Associação Empresarial de Liquica)	Salvador Serrão dos Santos
25	ASSECO (Associação Empresarial de Cova Lima)	Julio do Carmo
26	ATTL (Associação de Turismo de Timor-Leste)	Gino Favaro / Ann Turner

Source: Business Forum, 2006.

By sheer number, the business associations are a relevant player in Timor-Leste society, though they tend to function like peer or family groups rather than organized associations. There are some current donor initiatives, like that of USAID-DSP (USAID Desenvolvimento Setor Privado), to support the further strengthening of the associations, and some of the larger associations are interested in further developing their basis for advocacy.

## References

- Conroy, John. 2006. *“Timor-Leste: Access to Finance for Investment and Working Capital.”* Prepared for the World Bank and the Government of Timor-Leste.
- House, William J. 2001. *“A study of the Potential Contribution of the Micro and Small Enterprise (Informal) Sector to the Economic Development of Timor Loro Sa’e.”* ILO UNDP Working Paper.
- Ministry of Development. Business Registration Unit data.
- Saldanha, Joao M, and da Silva, Henriqueta. 2004. *“Challenges for Business in East Timor, a Firm Level Analysis of the Furniture Industry.”* Timor Institute for Development Studies (TIDS).
- Timor-Leste Census of Population and Housing. 2006. [www.dne.mopf.gov.tp](http://www.dne.mopf.gov.tp)
- World Bank. 2003. *“Timor-Leste Poverty Assessment, Poverty in a New Nation, Analysis for Action.”*
- World Bank. 2005. *“Enterprises, Workers and Skills in Urban Timor-Leste.”*