

Proposed Strategic Plan for the Border Service of East Timor

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By:

Guillermo L. Parayno, Jr.

UNDP Consultant

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PREFACE

In response to the many issues raised on the operation and development of the Border Services of East Timor, the East Timor Transitional Administration (ETTA) organized a strategic planning workshop in Darwin, Australia from 21-24 September 2000. Invited to participate were officials from the Border Service as well as from Departments with functional concerns over the activities and the directions being taken by the Service in its development. Likewise invited to participate were officials from donor countries with contingents seconded to BSET and representatives from international organizations UNDP, IOM and AusAid. Also in attendance were representatives from the Council for National Resistance in Timor (CNRT).

Participants shared views and perspectives on the role of a border service in East Timor, the major policies on customs, migration, quarantine and maritime operations that the border service must observe in the conduct of its operations, the central arrangements and government reporting lines to be addressed and the issue of Timorization. At the completion of the workshop, a number of general directions were identified that may serve as guidepost to a plan on the future development of the Border Service of East Timor.

Before the workshop, UNDP on request of ETTA engaged as consultant Guillermo L. Parayno Jr., former Commissioner of Customs of the Philippines in crafting a Strategic Development Program for the Border Service of East Timor. The consultant, who also participated in the Darwin workshop, was asked to consider the agreements in the preparation of the Terms of Reference for the Project and in the crafting of the strategic plan.

The consultant met with Ms. Anna Pesoa, Cabinet Member Internal Administration, Mr. Michael Francino, Cabinet Member Department of Finance, Mr. Shuja Shah, Head Division of Commerce, Industry and Tourism, Mr. Jesudas

Bell, Director Investment Institute, Mr. Serge Verniau, Division of Agricultural Affairs, Mr. Thomas Story, Commissioner East Timor Revenue Service, Mr. Librada, Director Central Payment Office, Messieurs Roque Rodriguez and Joao Goncalves, both of CNRT, Division of Health Services, Division of Information, Technology, Post and Telecom and Mr. Mariano Lopes of the Inspector General's office.

Extensive discussions were held with the management and staff of the Border Service and visits were made at the offices at the BSET Headquarters, Dili Port, and Comoro Airport and at border station at Batugade. Meetings were also held with Gunnar Hansen, Port Authority Manager, Mr. Eric Mancini of Perkins Shipping and Mr. Greg Brown of Australia Freight Service. A trip was also made to Baucau airport.

Discussions were held with UNDP East Timor particularly with UNDP Resident Representative Finn Riske Nielsen. Mr. Ardarsha Tuladhar, UNDP Program Officer accompanied the consultant in several of the above meetings.

Following the Executive Summary (Chapter I of the report), the consultant's findings, observations and recommendations were presented in the following areas: Legislation (Chapter II); Operations (Chapter III); Organization (Chapter IV); Personnel, Training and Timorization (Chapter V); and Computerization (Chapter 6). The 5-year Development Program is contained in Chapter VII.

I. EXECUTIVE SUMMARY

A. Background

Of all the government agencies created by UNTAET in response to the UN mandate to provide transitory administration for East Timor, the Border Service is probably the one agency that was forced to grow up almost overnight. From its humble beginnings at the 'tent city' where it was established in February 25, 2000, the Service has now its own headquarters building near the Port of Dili and a small office at Comoro Airport. Makeshift offices were also built inside the Port of Dili and at the border station in Batugade. The service is in the process of establishing an office in Maliana to serve as the district headquarters of all the border stations being established at the western borders from Batugade to Suai.

Border Service Officers (BSOs) are now manning both the immigration and customs lanes at the airport and at the border crossing points. Integrated service is also given in the entrance and clearance of aircrafts and sea crafts arriving in the country. Along the western border from Suai to Salele and down to Batugade, a limited surveillance is being undertaken on smuggling activities and illegal entrants. But it is in raising revenues that the Service has made its mark as it now provides almost 70% of total government revenues.

The Service's revenue generation operation commenced on 20 March 2000. From a collection of only \$102,169 for that month, collection peaked in July at \$ 908,591. As of 17 October 2000, cash receipts from BSET collections already reached \$4,452,233. At this rate, collection is projected to go over \$ 8.0 million for one whole year exceeding the target by 100%. For the second year of operation, Central Fiscal Affairs is setting the revenue target for BSET at \$ 14.0 million.

For being first on the ground up and running, other government agencies have been looking up to the Border Service to help enforce some of their mandates. The organization has achieved the reputation of a 'shared asset' that many other agencies of government may avail off instead of establishing their respective capabilities for enforcement.

The above accomplishments which are well recognized and appreciated notwithstanding, there is a growing sentiment within ETTA, the CNRT and even among donor countries and organizations that the phase of development by BSET leaves some things to be desired. Questions have been raised on the amount of attention and the quality of service devoted to non-customs functions. There are sentiments that the Service has over-extended itself in trying to take as its responsibility many non-customs matters. For their part, the donor countries and organizations have been unhappy with the phase with which the responsibility for running the service is handed over to the East Timorese. They bewail the lack of an overall business plan, one that among others clearly define how the Border Service should develop to become self-sustaining and fully independent.

Views have also been expressed that the service should be collecting more. There are reports of large scale under valuation of imports. Monthly collections went flat after July or at about the same time the 160 local staff was deployed to the various stations. Comparing the projected total collections of \$ 9 million up to March 2001 (using the July to September monthly average of \$ 831,386) against the budget for personnel, goods and services of \$0.9 million (total budget including capital equipments is \$ 2.0 million) from ETTA alone, the collection per dollar expenditure is a low \$ 10. Since UNTAET has been supplementing the budget from ETTA in terms of the supplies, equipment and salaries of UN professionals and volunteers, total expenditures is really much higher and the return much lower. By comparison, most Customs administrations

are returning to government coffers anywhere from \$200 to \$300 for every \$ 1.0 spent.

The high level of exemptions on imports is also a cause of concern. The reality of the moment is that most of the imports are for relief and rehabilitation as well as for the provisions, supplies and equipments of a large international force engaged in governance, peace keeping and relief work all of which are exempt from duties and taxes. Nonetheless, there are more than anecdotal evidence of abuse of exemption and that the leakages in revenue may be significant.

B. Summary of Major Findings

Legislation

The legislative base governing customs operations contained in the regulations, directives and guidelines issued by UNTAET are simple and easy to understand by trade. It also supports 'self assessment' which is an important feature of an efficient cargo clearance system. However, the legislative base does not directly provide officers the basic powers upon which a modern customs administration operates. Following modern customs legislations, it is important that Border Service officers are able to review declarations after release of goods and issue additional assessments, to open the books of accounts of importers and to have clear and full authorization to implement selectivity. For flexibility and expediency, the legislation must vest upon the head of the service rule making powers. And although those provisions of the Customs Law of the Republic of Indonesia not in conflict with those issued by UNTAET remain in effect, it is important that the legislative base is made complete with the incorporation of administrative and judicial proceedings on searches, seizures and arrests, surcharges, fines and forfeitures and the disposition of property under customs control among others. Authority to require assistance and to designate any

national, municipal or provincial official to act as border control inspectors for customs, immigration and quarantine should also be included.

A provision needing immediate review is the 'customs value of goods.' No doubt, the vagueness with which this has been defined under the existing legislation is partly responsible for the under valuation of imports. UR 2000/12 provides that the customs value of the goods shall be the transaction value and this in turn is clarified under UD 2000/2 as the fair market value of the transaction. By comparison, the Customs Law of the Republic of Indonesia adopted the WTO Valuation Code and defined transaction value as 'the price actually paid or payable by the buyer to the seller for the goods when sold for export to the Customs Territory...' Perhaps the expected initial lack of competence of the service to implement transaction valuation and the high probability of abuse were the reasons for the deviation of the UNTAET regulation from the WTO convention. But the concept of 'fair market value' can have different meanings. Is the market value contemplated the domestic or the export market value? Is it wholesale or retail? Is it the market in the buyer's country or that of the seller? What is the meaning of fair? Is it a normative price or an average price?

There is a large quantity of goods imported exempt from payment of duties and taxes. The revenue forgone on these is high. But while the legislation already minimizes the allowable exemptions to the minimum, the massive influx of these exempt goods may provide opportunities that criminal elements may take advantage of. There are reports, both official and anecdotal that some of the goods are finding their way to the domestic market.

But the major shortcoming of the current legislation lies in its relative one-sidedness to the rights and powers of the government as against the rights and interest of the public, which the laws, regulations and directives must promote as well. Modern Customs legislation seeks to strike the right balance between the

need for the proper enforcement of laws and the expectations and even the demands of businesses and individuals for better governance. The World Customs Organization has been championing the need for customs legislations to be 'balanced' through its many conventions one of which is the Kyoto Convention. The current legislative base of BSET does not reflect these modern prescriptions.

Entry Declaration Processing and Delivery Authorization Procedures

Although risk assessment and selectivity are not specifically provided for under the existing legislative base, there is already an element of these principles operating in the cargo clearance system in as much as cargo examination is performed on a selective basis. However, 100% of entries are still going through the entry evaluators. Selectivity as practiced by advance customs administrations would have to wait for the availability of the essential enablers such as electronic lodgment and electronic processing of entries including automated selectivity before it can be implemented in East Timor. When the technology becomes available, it would be possible to issue delivery authorizations right after receipt and registration of entry declarations and by-pass everything else in-between.

The overall clearance process is simple enough despite being 100% manual. However, it suffers from a number of weaknesses and vulnerabilities that must be quickly repaired to protect government revenues. The shortcomings are, among others, a result of the system not being a closed system, the engine driving the process is the importer himself being the one who hand carries the documents from one office to another, the lack of support mechanism to officers and the absence of controls on sensitive documents. The entry declaration software itself needs re-programming to improve on its security features as well as to enhance the capability to generate databases for control and statistical purposes.

Under valuation of imports is a problem common to many customs administrations. East Timor is no exception. In fact, a random review of the declarations indicates that the level of under valuation is high particularly on shipments coming from Indonesia. Under UNTAET regulations, the border service is not under any obligation to use the invoice value if in its view the value therein is not reflective of the fair market value. Yet only in extremely rare cases did the service contest the valuation of imports. Even in cases when goods not declared are found in the shipment, the practice has been to use the values contained in a supplemental invoice provided by the importer himself.

In- Dock Operations

The concept of controls on the reception, movement and release of goods from the ports follows the traditional thinking of 'nothing moves without Border Control approval'. Thus vessels cannot unload goods without having been boarded by BSET officers who conducts quarantine, immigration and customs formalities. Likewise, goods cannot leave the port without BSET 'sentinels' giving the go ahead order. Modern customs control procedures rely mainly on the security system of the port cargo handler. Responsibility for the proper delivery of goods is clearly vested on the cargo handler who is accountable to customs for any loss or missing goods. Customs regularly audits the system and relies on proper intelligence and surveillance operations to detect breaches. The traditional methods of control require the deployment of a sizable number of personnel but whose work have very little control value. Not infrequently, port personnel even ends up doing things contrary to what their responsibilities are. On the other hand, audit based controls have been shown to be more effective and entails less personnel.

Off-Dock Operations

The operations of bonded warehouses for the storage of goods belonging to the operator himself poses high risks to customs and must therefore be accorded proper controls. In the case of the docks, the cargo handler does not own the goods stored therein and can therefore be expected to secure the same from illegal release. Not so for a 'private' bonded warehouse where the operator and owner of the goods are one and the same. As for 'public' warehouses, the risk may be lesser but nonetheless high because the current control system is too trusting and can easily be abused. The licensing process has been an informal process, quite loose and may easily lead to a proliferation of such facilities in as much as there are no limiting mechanisms to the number that may be put up. Several of the bonded warehouses were established with the storage of goods belonging to exempt entities in mind contrary to the general principle that goods warehoused must pay duty and tax upon withdrawal and within the maximum period of storage. The number of personnel and the amount of resources used for the control and supervision of these off-dock facilities has been few and thereby the prospects of revenue leakage are high for this aspect of customs operations.

Airport Cargo Operations

The administration of entrance formalities to arriving aircraft and the accounting of cargo unloaded has been neglected by the local staff and in some occasions left to the contingents to undertake. While for mature airports with adequate cargo terminals and cargo tracking systems the traditional control may be dispensed with, the current situation at the airport and the absence of a cargo terminal require that in the interim, such physical and manual controls are needed. There have been reports that cargoes were released by the airlines without the customs delivery authorizations nor having been subjected to customs control. The advent of air express operations exacerbates the lack of clarity in the cargo delivery system at the airport and unless corrected could lead to leakages in customs revenue.

As for passenger processing, officers manning the immigration lanes are not equipped to profile arriving passengers. They do not have access from their stations on the arrival database that could provide them some indicators on the activities of a person. As such, they are unable to properly perform their roles as primary control to the officers undertaking secondary control at the customs lane. The benefit of a 'shared asset' is therefore not optimized.

Immigration Operations

The coverage of the work on immigration has been confined to receiving arrival and declaration cards and the issuances of entry permits. Officers manning the immigration lanes are not equipped as to be able to provide more than just a cursory verification of a person's admissibility in the country. There are no indications that the envisioned synergy between the primary and the secondary lanes in the detection of high-risk persons have materialized. The service is undertaking the issuance of travel documents (a questionable activity considering the assigned mandate) but it has not been operating against overstaying and illegal aliens and is slow to develop the support systems needed for it.

Quarantine Operations

The Service has not started implementing any Quarantine activity be it Agricultural, Fisheries, Health or Food and Drug. This is because the agencies of primary responsibility are still in the process of organization and policy setting. The Division of Agricultural Affairs for example has responsibility for establishing policy, technical regulations or standards and compliance procedures on plant and animal quarantine. However, there is yet no regulation on the matter although work is already in progress to have a draft regulation ready by the year's end. But with a proposed maximum of 126 personnel in its service, the

division does not envision itself to undertake enforcement of quarantine regulations, which is an activity it intends to rely on BSET as its enforcement arm specifically at the borders. Furthermore, not having the needed equipment, money and trained staff to do testing, the division would also most likely adopt international standards and accept the certification by originating countries as to the compliance of imports with the standards. Controls would very likely then be paper controls rather than on the physical verification of compliance.

Organization

There is still no consensus as to how best to organize the Border Service. On the one extreme is the view that as an integrated border service, it must be the only customs, immigration and quarantine body in the country. This thinking also advocates that to protect the borders, the service must have patrol capabilities and be armed to effectively discharge this function. Furthermore, proponents hold the view that the service be 'independent', reporting to one cabinet member although its performance may be reviewed by a board composed of representatives from stakeholders departments of government. Currently, the service reports directly to the Transitory Administrator through the Deputy Transitory Administrator for Governance and Public Administration.

Many in ETTA however holds the contrary view that BSET should only be responsible for Customs activities and that non-customs matters should be vested upon other government agencies. The most recent regulation issued, UR 2000/32 on the establishment of an East Timor Revenue Service, affirmed the primary responsibility of the newly established service for the duties and taxes now being collected by the border service. It is very likely that when the other departments and offices are established such as immigration, quarantine and defense, many other responsibilities being performed by BSET will just become delegated responsibilities as well.

Personnel, Training and Timorization

Several factors combine to give an impression that there are not enough personnel in the border service. First and foremost are the principles of control and methods of work employed. Physical controls involving the 24-hour deployment of personnel in the seaport, airport and border station requires lots of people. Second, the level of proficiency is still low which is being responded to by deploying more staff. Third, a sizable portion of the staff is under some form of training at any one time.

Matters are being immensely helped by the presence of the internationals. They make up for the seeming lack of personnel. Several of the contingents have been exceptionally helpful and productive, spending long hours in their work, not distinguishing work days from weekends and holidays. They have been driven by a desire to make a difference and to contribute to the development of the service, mindful that they are carrying the colors of their respective services and countries.

But the internationals are only in the country for short-term engagements. There is therefore no continuity in the work that they do. Their respective services expects them to concentrate on training and capability development, not to do the work themselves. Unless matters are rectified, there are moves by the foreign services not to provide replacements to contingents whose tours of duty have ended. They would like to see a definite timetable for Timorization of the border service and an exit date for their personnel.

Computerization

The move taken by management to provide an entry declaration software and information package to trade from the very beginning (March) has provided dividends for the revenue program of the service. The accompanying accounting

and statistical system introduced in June provided management a level of control over the process. Effectively, computerization has been effected at the beginning and at the end of the process. But management must work harder now because experience has shown that partly computerized cargo clearance systems are as risky as a completely manual system.

The 'open' cargo clearance system has many weaknesses and vulnerabilities to fraud. Already, cases have been discovered and are now under investigation. There are also several opportunities for deriving more benefits from the system in the short term. But the Service must now consider putting in place an on-line transaction processing system in preparation for the time when the deterrence to fraud of the presence of the internationals in the service is gone.

C. Summary of Major Recommendations

Legislation

- ❖ Draft a Customs Code that clearly supports the modern customs enforcement methods and at the same time incorporates the relevant standards contained in the Kyoto Convention
- ❖ Issue a supplemental regulation on the operational definition of 'fair market value' and explicitly empower the Controller to establish by any reasonable ways and means the value of goods for customs purposes.
- ❖ Centralize evaluation and grant of exemptions at the Department of Finance

Declaration Processing and Delivery Authorization

- ❖ Compensate for the weaknesses and vulnerabilities to fraud in the process by instituting audits and back-end reconciliation systems.

- ❖ Deploy electronic authentication systems for hand carried sensitive documents.
- ❖ Automate selectivity to remove selector bias and to avoid telegraphing actions
- ❖ Provide decision support systems to entry evaluators and frontline officers that would help them perform their task better. Since under valuation is a significant problem, evaluators must be provided valuation databases to help them 'trap' questionable declarations.
- ❖ Require diskette submission on top of the paper declaration, perform computer check on the correctness of declaration and utilize the electronic file of declaration to support operations of BSET offices.
- ❖ Require importers to pay to the bank prior to submitting the entry to CREP to insure collections and to streamline the procedure.
- ❖ Increase the level of examinations to at least 5%. Utilize personnel that will be withdrawn from the port (see in-dock recommendations) for the increased level of examinations.
- ❖ Re-program the entry declaration software such that there will be only one entry declaration per shipment.

In-Dock Operations

- ❖ Shift the concept of controls from a 100% physical control to a risk based and selective system of controls. The present control system should be undertaken only on an interim basis until the new control procedure has been put in place.
- ❖ Clearly make the cargo handler responsible for the security of the goods in the port and require him to put up a system to track and account for all shipments handled by him. The system must among others provide BSET a terminal through which cargo release authorizations may be transmitted and generate reports of overstaying and abandoned goods.

- ❖ To insure dependability of the cargo handler's system, regularly perform system audits using the CREP files and databases to reconcile release authorizations.
- ❖ Utilize the system reports on overstaying goods to institute abandonment proceedings and to physically determine if these are still inside the port
- ❖ Withdraw personnel from the port in the long run.

Off-Dock Operations

- ❖ Supplemental control measures must be established in the documentation, transfer and withdrawal of goods.
- ❖ More resources must be deployed to the supervision and control of off-dock facilities.
- ❖ The Licensing Process for the establishment of off-dock facilities must be formalized. In addition to insuring the physical security of the goods warehoused, the operator must provide a computerized system to track and account for all transactions as well as regular reports on overstaying goods.
- ❖ Grant of License for the Warehousing of Goods for Exempt Entities Must be Discouraged

Airport Operations

- ❖ A cargo terminal must be provided to replace the container bonded warehouses that are currently serving as temporary storage facilities. Except for the limited categories of goods that may be granted terminal release, all arriving cargo must be taken to the facility for proper customs control.
- ❖ As with the port, the responsibility for the proper delivery of goods from the cargo terminal must be clearly vested on the terminal operator who

must be required to put up a cargo tracking system that can support an audit based customs controls. In the interim, clear manual systems must be provided.

- ❖ The database on passenger arrivals and other intelligence information must be made available to the officers manning the immigration lanes.

Immigration Operations

- ❖ Devolve Travel Document Issuance. BSET may still carry out its mandate of regulating the entry and exit of people at the borders in an integrated manner with customs and quarantine inspections without being the one to issue travel documents. Travel document issuance may be better served by a division or an office within the Department of Internal Affairs in the best position to verify the identity claims in the application. In the future, the country may follow the set up in most countries and leave this matter to Foreign Affairs.
- ❖ Develop a Tracking System for Overstaying Aliens. The arrival and departure database must be enhanced into an information system for overstaying visitors in the country.
- ❖ Account for Overstaying and Undocumented Aliens. It has been ten months since immigration services were first rendered at the airport. It is about time an operation be undertaken to account for overstaying aliens with the use of the tracking system described above.
- ❖ Conduct More Training on Immigration Matters. The plan to have more days for immigration matters in the Border Officers Training Course is supported. However, more specialized training is advisable particularly for supervisors following a 'train the trainers' program.

Organization

- ❖ The concept of BSET being a shared asset providing integrated services at the country's ports and airports of entry must be continued and enhanced.
- ❖ While confirming the primary responsibility of BSET to enforce customs laws in the entire country, border patrol itself must be the responsibility of a department that can provide better security to the borders across all types of threat.
- ❖ Responsibility for policy, issuance of authorizations and grant of entitlements related to immigration, quarantine, finance and similar matters should not be the responsibility of BSET.
- ❖ Being primarily a revenue service, the reporting line of the Border Service must be with the Department of Finance.

Personnel, Training and Timorization

- ❖ Expand the Border Service Training Course from 7-days to 12 weeks not only to provide the basic know how to the officers but equally important, the proper outlook, attitude and discipline for the service.
- ❖ Redefine the role of the internationals as agents for capacity building and not as additional work force for the border service.
- ❖ Establish capabilities for audits, systems development including information technology development, formulation of doctrines and better work methods, personnel development and training.
- ❖ Take on board immediately the replacements of top management but provide for their 'phased' preparation and assumption of the management role
- ❖ Peg the organization to its current strength and recruit only for those new capabilities that would be established at headquarters.
- ❖ Provide for performance based incentive schemes.

Computerization

Short Term

In the short term, enhancements on the two computer systems must be made to support the recommended reengineering of the entry declaration processing and delivery authorization system. The following specific projects are recommended for immediate implementation:

- ❖ Enhance the Declaration Software and Provide for a Declaration Verification Program
- ❖ Improve the Security of the Accounting and Statistical System
- ❖ Integrate the Declaration and the Accounting/Statistical Systems into a Network

Medium Term

- ❖ Fully automate the cargo clearance system and provide interfaces with offices supplying sensitive documents and data to the process.
- ❖ Utilize the Automated Customs Operations System for Customs Data (ASYCUDA)
- ❖ Use the Cargo Clearance System computer platform to run the other systems of the Service

The medium term programs may be implemented in two Phases. The first involves operating ASYCUDA in just one site (headquarters) in a LAN environment but with WAN interfaces with the agent bank for the payments and the Department of Finance for the exemptions. Release authorizes to the cargo handler may be managed in the LAN in view of the proximity of headquarters to the port. The second phase will bring the entire trade community into the system through the Internet.

Long Term

In the long term, BSET already by that time an IT champion should use its achievements to help further electronic commerce and electronic governance in the country with such projects as:

- ❖ BSET-Department of Finance Computer Interface
- ❖ Electronic Import and Export Authorization System
- ❖ BSET Trade Information System

D. Strategy for Development

General Approach

In the short and medium terms, the development program must be directed at rectifying the above described 'gaps' that to a large extent may be attributed to 'birth pains'. The Service must also complete its Timorization Program.

The programs that would address the gaps are contained in the various recommendations in the report.

In the long term, BSET must undertake programs to respond to the following demands on the organization:

1. Government will mainly rely on the BSET to provide revenues.
2. New business developments will pose special concerns for BSET.
3. Business will demand for better and cheaper service.
4. There will be moves for BSET to harmonize its processes with those of other countries in the region.
5. Government will call for a lean but highly efficient bureaucracy.

In its journey, the service should take advantage of the following windows of opportunities:

1. Presence of UN agencies with mandate to provide development assistance and of a large body of international experts in the country
2. Readiness of the governments, in particular of customs administrations, to provide assistance
3. Willingness of the business community (shipping lines, bank, cargo handler, air express companies and importers) contribute in the establishment of mutually beneficial structures and systems
4. A 'newly created' local work force that is trainable and still relatively free of bad habits and traits
5. A new country with leaders and still imbued with a strong sense of nationhood

Short Term Programs

1. Immediately take on board the prospective Controller and his deputies, assign them to unfilled positions in the organization and make them part of the day to day decision making process as part of their training and preparation without reducing the capability of the incumbent Controller to sustain and even accelerate the phase of existing programs
2. Strengthen the revenue and control systems, including the supporting computer systems and remove the potential sources of leakages and commission of fraud
3. Realign controls from physical to audit based controls after clearly establishing responsibility for cargo security.
4. Require cargo handlers to develop computerized cargo inventory systems through which delivery authorizations may be transmitted by BSET and which can generate reports to support cargo accounting.

5. Undertake audit and reconciliation of assessments, payments, cargo arrivals, cargo releases, transfers, withdrawals and exemptions
6. Deploy contingents to the development of methods of work following the new concept of controls and to the development of local capability for these methods of work
7. Deploy local personnel who will be 'freed' following implementation of the revised work methods in cargo control to the additional examinations above described, to the supervision and control of off-dock facilities and to other high risks areas that will be identified in the audit process
8. Continue the formal and informal training program of the locals and provide for a mechanism to weed out those that will not meet standards. Along this line, clear standards must be set passing the qualifying test for which must be a condition for retention in the service.

Medium Term Programs

1. Seek new mandate for the service that will allow it to focus on its core competency
2. Establish linkages and working arrangements with government agencies responsible for policy and issuance of authorizations and entitlements
3. Develop and implement an on-line transaction processing system for cargo and people that takes advantage of the latest advances in information technology. ASYCUDA is the recommended customs software in view of its track record, its adaptability to various customs environments including various ways of entry declaration reception procedures, i.e., service centers, direct trader input and electronic data interchange. Development work is now going on to add a fourth method based on web technology.

4. Help organize the private sector so that they can participate in the development of the service, in the observance of and compliance to service laws rules and regulations and in identifying inefficiencies and irregularities
5. Implement performance based incentive schemes to supplement employee compensation and to improve work performance

Long Term Programs

1. Work for the enactment of a new customs code
2. Help draft a immigration code
3. Develop methods of control and create an organization to handle the special concerns of special economic and export processing zones.
4. Participate in activities of various customs organizations particularly in the region even in an observer status
5. Organize visits of its officers to other administrations to see for themselves the possibilities and what they must strive for
6. Participate in the WCO Reform and Modernization Program
7. Extend via web technology the service's on-line transaction processing system to all participants in trade and be the leader and the champion in electronic commerce and electronic governance in the country.

II. LEGISLATION

A. Current Situation

The main legislative base of the Border Service for East Timor (BSET) is contained in UNTAET Regulations 9,12, 18 and 32 all year series 2000 as well as UNTAET Directive 2000/2.

UR 2000/9 established the Border Service on 25 February 2000 to control the movement of persons and goods to and from the borders of East Timor. It defined the duties and responsibilities of the Head of Service, prescribed the terms and conditions for the grant of entry and exit and laid down the objectives in the administration of the regulations.

UR 2000/12 issued on 8 March 2000 laid down the provisional tax and customs regime for goods imported into, exported from and produced in East Timor. For the proper collection of the revenues provided in this regulation as well as the effective discharge of the functions of the Service, UD 2000/2 was issued providing for the control procedures in the flow of goods and persons across the borders, the documentation requirements and the mechanism for the proper collection of duties, taxes and other government impose.

Last 1 July 2000, another regulation was issued, UR 2000/18 on the Taxation System for East Timor. The provision of this regulation of relevance to BSET is the establishment of a Board of Tax and Customs Appeals, which has the responsibility of receiving and deciding on appeals to the decisions rendered by the Border Service Controller under Section 19 of UR 2000/9 and the decisions pertaining to UR 2000/12.

UR 2000/12 and 18 were amended on 29 September 2000 by UR 2000/32. A most important provision of this regulation is the power of the

Commissioner of the East Timor Revenue Service to collect all taxes, duties and fees levied under the authority of Regulation No. 1999/1(Section 5, UR 2000/32). The Commissioner's power therefore covers all duties, taxes and fees levied under UR 2000/12 or those, which since 20 March 2000 were being collected by BSET. However, Section 6 of the UR 2000/32 also gave power to the Commissioner to delegate to the Border Service Controller all duties and rights to collect the above revenue but subject to revocation at any time by the Commissioner.

BSET makes available to the public A Guide for Commercial and Private Importers and Exporters for the Importing of Goods Into East Timor. An important announcement in this guide is that BSET is responsible for "all border related matters commonly entrusted to Customs, Immigration and Quarantine departments in some countries." Prior to this announcement, only the Immigration and Customs functions are directly stated as border service functions. The Quarantine function of the Border Service is clear only in so far as persons are concerned since such is directly stated under Section 9.1 of UR2000/9. But animal, plant and goods quarantine functions are not directly specifically stated in the UNTAET regulations and directives.

Finally, UNTAET Regulation 2000/2 stipulates that all laws in force and in effect prior to 25 October 1999 not in conflict with any of the provisions of the UDs and the URs remain valid and in effect. The provisions of Indonesian Customs, Immigration and Quarantine laws not in conflict with the UNTAET Regulations and Directives may therefore be considered as forming part of the legislative base for BSET.

B. Issues

On Customs

With the powers of three traditionally separate government offices vested under one Service, it may no longer be appropriate to further conceive of legislation that will grant additional enforcement powers to BSET. However, following modern customs legislations, it is important that Border Service officers are able to review declarations after release of goods and issue additional assessments, to open the books of accounts of importers and to have clear and full authorization to implement selectivity. It is likewise desirable that the Border Service Controller have rule making powers or the authority to promulgate systems and procedures supplementing the URs and the UD. These additional enforcement powers are not supported under current legislation and must therefore be incorporated into the legislative base of BSET.

A provision needing immediate review is the 'customs value of goods.' UR 2000/12 provides that the customs value of the goods shall be the transaction value and this in turn is clarified under UD 2000/2 as the fair market value of the transaction. By comparison, the Customs Law of the Republic of Indonesia adopted the WTO Valuation Code and defined transaction value as 'the price actually paid or payable by the buyer to the seller for the goods when sold for export to the Customs Territory...' Perhaps the expected initial lack of competence of the service to implement transaction valuation and the high probability of abuse were the reasons for the deviation of the UNTAET regulation from the WTO convention. But the concept of 'fair market value' can have different meanings. Is the market value contemplated the domestic or the export market value? Is it wholesale or retail? Is it the market in the buyer's country or that of the seller? What is the meaning of fair? Is it a normative price or an average price?

But the major shortcoming of the current legislation lies in its relative one-sidedness to the rights and powers of the government through BSET as against the rights and interest of the public, which the laws, regulations and directives must promote as well. Modern Customs legislation seeks to strike the right

balance between the need for the proper enforcement of laws and the expectations and even the demands of businesses and individuals for better governance.

WCO membership will still be at some future time for the soon to be independent East Timor. However, adopting some of methods of work prescribed in a number of WCO conventions now may prove beneficial for the country. The newly independent states of the former Soviet Union are all framing their respective customs legislations along the lines of the WCO conventions as part of their overall strategy for quickly bringing their economic systems to the market economy. One important convention some selected provisions of which should be considered for immediate inclusion in the East Timor legislation for the Border Service is the Kyoto Convention.

The convention provides that the conditions to be fulfilled and the Customs formalities to be accomplished for procedures and practices in the General Annex and the Specific Annexes shall be specified in national legislation and shall be as simple as possible.

Contracting parties have to bring the Standards and the Recommended Practices, which they have accepted into force nationally. Their national legislation must therefore include at least the Basic Rules from the General Annex, together with detailed regulations for their implementation.

The basic rules covered in national legislation must contain the conditions under which a customs procedure is to be accomplished.

A comparison of the provisions contained in the Regulations and Directives issued by UNTAET as supplemented by the Guidelines promulgated by BSET with the Standards established under the General Annex as well as selected Specific Annexes of the Kyoto Convention shows that existing Customs

legislation of East Timor does not contain most of the provisions of a modern customs code. And while it may be said that some of the Kyoto standards are already expressed in the Indonesian Tariff and Customs Code which still remains in force and in effect (except for the conflicting provisions), political support and observance of the international standards would be much more strong if contained in an East Timor legislation.

The table 1 below is a listing of the Kyoto General Standards and indicating for each standard whether or not they find expression in the current legislation of East Timor. The number of these non-legislated standards is 64 representing 76% while only 20 or 36% are already included in the legislative base.

Table 1
Legislated vs. Non-Legislated General Standards

Chapter 3

Clearance and Other Customs Formalities

Legislated Standards- 3.1 3.11 3.15 3.16

Non-Legislated Standards- 3.2 to 3.10 3.12 to 3.14 3.17 to 3.45

The non-legislated standards of Chapter 3 pertains to the duty of customs to be flexible in its working hours, place of work and procedures to accommodate valid business conditions and in general to be customer service oriented and facilitative. Also included are standards on the legal rights and responsibilities of declarants and the disposal of abandoned goods.

Chapter 4

Duties and Taxes

Legislated Standards- 4.1 to 4.4 4.6 4.7 4.12

Non-Legislated Standards- 4.5 4.8 4.9 4.10 4.11 4.13 to 4.24

The non-legislated standards of Chapter 4 refers to rights of customs when importers fail to pay on time, amounts that need not be collected, deferred payments and repayments

Chapter 5

Security

Legislated Standards- 5.1 5.2 5.5 5.6

Non-Legislated Standards- 5.3 5.4 5.7

The non-legislated standards deals with the why, when, how and amount of the security

Chapter 6

Customs Control

Legislated-6.1

Non-Legislated 6.2 to 6.10

Non-legislated standards are those dealing on need to limit controls and the techniques of limiting controls as a way to facilitate trade and to make controls cost effective

Chapter 7

Application of Information Technology

Legislated- 0

Non-Legislated -10.1 to 10.4

Non-legislated standards pertain to the development and use of information technology and electronic commerce to make operations cost effective and to facilitate trade.

Chapter 8

Relationship between the Customs and Third Parties

Legislated- 8.1

Non-Legislated - 8.2 8.3 8.4 8.5 8.6 8.7

Non-legislated standards includes rights, duties and liabilities of third parties

Chapter 9

Information, Decisions, and Rulings Supplied by the Customs

Legislated- None

Non-Legislated- all nine (9) standards

These pertains to the duty of customs to provide relevant information to the public both of general and specific nature to include decisions and rulings

Chapter10

Appeals in Customs Matters

Legislated- 10.1 10.2 10.4 10.5

10.7 10.10

Non-Legislated - 10.3 10.6 10.8 10.9

Non-legislated refers to the duty of customs to give reason for its decision so an appeal can be lodged, to provide sufficient time for an appeal and the right of parties to seek judiciary relief

On Immigration

UR 2000/9, which is the governing legislation on the Border Service of East Timor, dwelt only of the basics of Immigration. Essentially, the only immigration activities provided for were those related to the control of the

movements of persons across the border, its objectives and the powers vested upon the BSOs to enforce the regulations. Unlike the Customs component of the legislation, which is supplemented by those provisions of the Indonesian Customs law not in conflict with the UNTAET regulations and directives, the Indonesian Immigration law cannot provide a similar role. The citizenship laws of Indonesia are irrelevant to East Timor and so are the structures for undertaking deportation hearings and other legal processes (visa and travel document issuances).

On Exemptions

For the period 20 March to 30 September 2000, the total value of imported goods is US\$124,640,423. Of these total, \$87,400,001 or 70% were granted exemptions. The revenue forgone on these exempted goods is US\$13,845,504. While these levels are to be expected at this time considering the massive relief, reconstruction and related programs being undertaken by UN agencies, the massive influx of these exempt goods may provide opportunities that criminal elements may take advantage of. There are reports, both official and anecdotal that some of the goods are finding their way to the domestic market. There is for example a report that a hotel sold to the domestic market a portion of its tax and duty importation. It is also noticeable that it is easy to buy any amount of goods from the Post Exchange store. At CREP, very little scrutiny is being devoted to the claims of exemption. A monthly analysis of revenue collected and revenue exempted shows that during those periods that exemption levels went up, revenue collected went down.

C. Recommendations

Draft customs and immigration codes. Incorporating into the national legislation the conditions under which BSET has to perform its procedures and practices as it pursues its mandates drives very strongly a national policy of

customer orientation, public service and support for business. It provides that enforcement and observance of these policies has the force and effect of law rather than matters that are up to the service to either observe or disregard. It would be advisable that the national legislation provide for the above-described standards.

It is highly desirable that a draft code be prepared for submission to the legislature after independence. The code must make clear the power of BSET officers to review declarations after release of goods, to issue additional assessments, to open the books of accounts of importers and to have clear and full authorization to implement selectivity. It is likewise desirable that the Border Service Controller have rule making powers or the authority to promulgate systems and procedures supplementing the URs and the UD. The Code must be made complete with the incorporation of the standard provisions on administrative and judicial proceedings such as searches, seizures and arrests, administrative proceedings, judicial proceedings, surcharges, fines and forfeitures and the disposition of property under customs control. Authority to require assistance and to designate any national municipal or provincial official to act as border control inspectors for customs, immigration and quarantine should also be included.

The same may be said of the need to legislate an East Timor Immigration and Citizenship Law.

Issue supplemental regulation providing an operational definition of 'customs value'. The legislation must strengthen officer's capability to contest value declarations by providing a customs value that can be verified and by explicitly giving the Controller the power to ascertain the value by any reasonable ways and means. In the interim that business practices in the country cannot support use of the GATT Valuation Agreement definition of customs value, 'fair market value' must be clarified as 'the price that the goods would normally fetch

in the principal export market of the country of supply in the usual whole quantities, in the ordinary course of trade and at the time of exportation to East Timor'.

Tighten the rules on the evaluation and grant of exemptions. Implementing instructions must be issued that would prevent abuse of the exemptions. Exemptions being revenues forgone must be viewed and handled with caution. While government must continue to respect the laws on exemptions to include those provided for under the Convention on the Privileges and Immunities of the United Nations, measures must be undertaken to see to it that exemptions are not open to abuse. For one, BSET and the Central Fiscal Administration (CFA) may already consider centralizing the evaluation and the grant of exemptions as well as standardizing the application procedures. The CFA is the logical office to handle exemptions with only a few exclusions, which may be delegated directly with BSET. A secured means of transmitting exemptions granted to BSET must be set in place together with a regular reconciliation of grants and availments to identify breaches in the integrity of the exemption process. The proposal to amend UR 2000/32 by clearly stipulating the non-transferability of exemptions and providing that the transfer of ownership or possession of the exempted goods to another person will be considered as an importation of the goods by the other person is strongly supported.

III. DECLARATION PROCESSING AND DELIVERY AUTHORIZATION PROCEDURES

A. Current Situation

The entry processing system of BSET contains several features of a modern customs system among which are client self-assessment, risk assessment and selectivity and payment through an agent bank.

Since 20 March 2000 or from the time UR 2000/12 came into force, importers were provided with an Excel Customs Declaration Software for the preparation of paper entry.

The declaration and the supporting documents are submitted to the Customs Revenue Entry Processing (CREP) Office where processing is undertaken as follows:

1. Documents completeness check
2. Risk Assessment. - An evaluator verifies if there is an examination request from the Intelligence Unit. He himself analyses the declaration for any indication of violation in which case he accomplishes a 'request for examination' clearly stating the reason for making the request. In either case, he sends the original copy of the entry to the operations unit for the examination of the goods.
3. Payment to the Agent Bank. - If duty and tax is payable, the evaluator stamps 'Approved to pay taxes assessed' on the owner's and the delivery copies of the entry. The importer then takes the entry to the agent bank for payment. The bank deposits the payment in three government accounts, one each for duty, excise and sales tax and then puts the bank stamp on the entry to evidence payment. The

importer then returns to BSET with the entry already stamped by the bank.

4. Examination of Selected Shipments. - Only after payment is received (unless exempt) that the examination is undertaken which is mainly undertaken at the importer's premises in view of the lack of adequate facilities at the docks.
5. Delivery Authorization. - If the entry is not selected for examination or if processing is allowed to proceed after examination, the entry is stamped ' delivery authorized'. The delivery and owners copies are returned to the importer so he can effect delivery of the goods from the shipping lines.
6. Verification of Exemption. - The processing of Exempt shipments follows the same general procedure except that the exemption claim is verified prior to authorization of delivery in lieu of payment to the bank.
7. Statistical Recording. - After release of the delivery authorization, the particulars of the entry are entered into an excel file from which statistics on value of imports, revenue collected and exemptions granted are generated.

B. Issues

The system in totality is a very simple process that importers have little difficulty following. Its simplicity prompted some forwarders and customs brokers to comment that there may not be enough reason for importers to use their service. But this simplicity is both its strength and weakness.

Open System Have Many Vulnerabilities. The clearance system is driven by the importer or his representative. He is the primary engine in moving the document from one station to the next. Document substitution, introduction of spurious document and tampering of document details can happen at any of those stages of the clearance process where the importer gets hold of the

documents for the purpose of taking it to the next stage. The presence of the contingents and international professional staff at BSET may be deterring exploitation of the vulnerabilities now. But for how long will this deterrence last and what will happen after these guiding hands and watchful eyes are gone? Just recently, several containers were released from the port without CREP's delivery authorization.

Inadequate Security for Sensitive Documents. The payment system is particularly vulnerable. The bank stamp evidencing payment of duties and taxes has no security features rendering it very easily falsified. The BSET stamps evidencing authorization of delivery as well as the approval to collect are likewise easily copied. When asked if they can tell the difference between authentic and fake delivery authorization stamps, shipping line personnel replied that in the first place they do not make verifications and that in the second place, they have no way of telling the difference. The same vulnerability is present with the exemption papers. In many instances, the exemption paper is a simple letter of introduction stating that the importer is exempt and without specifying for what goods the exemption is being sought.

Deterrence of Selectivity is Not Maximized. Shipments alerted by the intelligence unit on the basis of manifest information are conspicuously displayed in a bulletin board that can be seen by the public with not much difficulty. On the other hand, the evaluator responsible for identifying shipments likely attendant with violations can be easily approach by the importers. This negates the deterrent effect against violations that selectivity is expected to provide since an importer can tell in advance whether or not his shipment is selected for examination. If selected, all he had to do 'is right things up' or if he still intends to pursue his illicit intentions, make necessary arrangements with the officials concerned.

Entry Evaluator lacks support system. The work of the entry evaluator is at the heart of the assessment and collection system. He performs three major functions of (1) assessing the risk inherent in a declaration and deciding whether or not to have the goods examined (2) verifying the correctness of the value (cost, freight, and insurance), classification and calculation declared in the entry (3) verifying the evidence of payment or of the exemption, completing the processing and issuing the delivery authorization. For shipments examined, he has the added responsibility of determining the additional charges and penalties owing. This enormous responsibility is too much for one man to undertake reasonably well even at the still very low level of fifty entries a day. That he manages to do all these within the day without any decision support systems to help him and still have a lot of time to spare indicates the superficiality of the evaluation process.

Under Valuation is Alarming High. A review of all import declarations covering shipments from Indonesia for the period 28 September to 10 October 2000 shows high levels of under valuation (please see Table 2). The invoice value of goods in a 20-foot container van with freight prepaid is noticeably very low ranging from \$590 to \$4200 for an average of only \$2195. In as much as the average freight for a 20 ft. container from Surabaya to Dili is \$1000, then the average cost of goods is only \$1195 per container with some of the shipments is even negative (such those freight prepaid shipments with invoice values of \$590, \$822 and \$861). At an average weight per container of 10 MT, average declaration is a very low value of \$199 per MT or \$0.119 per kilo. By comparison, the price of low-grade resin (raw material for plastic products) in the international market is around \$800 per metric ton indicating that the cost of the goods declared is in many cases even less than the value of the raw materials used.

Value of the Customs Declaration Software May Not Optimized. Much can be done with the excel based declaration software. For one, importers may be required to submit a diskette file of the declaration together with the paper

declaration. If this is done, the first thing that BSET may do is run the file on the official customs software and the output use to verify the correctness of the paper declaration. This will prevent a situation whereby a tampered software is used to reduce the amount payable. The electronic file of declarations may then be accessed by other offices to support their respective work including the generation of statistics without the current encoding of the entry details by BSET.

Low Level of Verifications. Inspections only started in June and so far only 57 such inspections were undertaken for a low of 0.65 examinations per day. The results of the intervention also seem to be as a whole not significant. Except for the initial seizures at Batugade in April this year of detergents, soft drinks and some videodisc which filled up two twenty-foot containers as well as the collection of an additional \$55,000 from used cars from Singapore, the examinations have not yielded much results. To date, the total amount of additional collections to include the penalties is \$100,914.73.

Split Entries. For shipments covered by several invoices, separate declarations are submitted and each one is issued a separate warrant number. At times, it happens that only one of the entry is paid for but the delivery authorization is used to release the entire shipment. Split entry may be allowed in certain cases as when part the shipment will be released on consumption and the other part on warehousing. But controls must be put in place such as by amending the manifest to reflect the split to prevent wrong deliveries or illegal releases. As a general rule, however, there should only be one entry per bill of lading. If the number of line items cannot be accommodated in a single form, the balance should be contained in a supplemental form that cannot be mistaken for a separate delivery authorization.

C. Recommendations

Reinforce the 'Open' System. The vulnerabilities to fraud of an 'open' system have been addressed by some Customs Administrations by 'closing the system' as for example, by employing official couriers and transmittal clerks to replace the hand carrying by importers of official documents. However, the experience has been that this measure only provides temporary relief against the corruptive influence of organized groups. Furthermore, the measure serves to lengthen the bureaucratic chain to the prejudice of legitimate trade. By comparison, some measure of success has been experienced in the used of 'early detection measures' as in audits and back-end reconciliation. Properly employed, infractions may be detected through these measures early enough and the fraud may be still be prevented. At the very least, corrective and punitive responses following early detection would be a strong deterrence against the repetition of infractions. In the design of early detection measures, the actual execution must be undertaken outside of the regular process flow in order that the additional measure does not add to the number of processing steps and that is transparent to the public.

Deploy Electronic Authentication System for Hand carried Sensitive Documents. As soon as conditions allow, BSET must provide its officers with means to verify the authenticity of sensitive documents. The measure may be a simple fax system. Computerized verification procedures may later on be installed using networked computers or through the Internet.

Automate Selectivity. To maximize the benefits from risk assessment and selectivity and at the same time protect BSET officers task with this responsibility, the procedure must as much as possible be operated in a computerized environment.

Provide Decision Support to Evaluators and Frontline Officers. To enable an entry evaluator to reasonably perform what is expected of him, he must be provided with information against which to assess the correctness or

reasonableness of the declaration. For example, the evaluator already has the Australian alphabetical listing of commonly imported goods and their corresponding HS Codes. But he needs other information such as values of goods, freight charges and insurance rates. Ideally, the data must be stored in a computer and an efficient search engine provided for easy search.

Revise the Procedure for Entry Lodgment. Require diskette submission on top of the paper declaration, perform computer check on the correctness of declaration and utilize the electronic file of declarations to support operations of BSET offices.

Payment to the Bank as First Step. To correct for the present weakness associated with returning the entry document to the importer in the middle of the processing to make bank payment as well as to avoid the cases of unpaid or delayed payment entries, BSET should consider requiring importers to pay to the bank prior to submitting the entry to CREP. The advantage to the importer is that under this system, they only have to go to BSET once instead of twice and that they can immediately obtain their authorizations earlier.

Increase the Level of Verifications. The level of verifications is low even by the standards of the most advanced customs administrations. Developing countries have targeted 20 % selections at the start of their selectivity programs and gradually reduced the level to 5% before eventually bringing it down to the 1% level targeted by advanced administrations.

Improve on the Valuation of Goods. Earlier, it was recommended that a supplemental regulation be issued to provide an operational definition of the 'fair market value of the transaction' and that the Controller be specifically vested with the power to determine the value for customs purposes. As soon as this has been done, BSET must establish values and provide these to entry evaluators responsible for the valuation of the goods.

Eliminate Split Entries. The entry declaration software must be re-programmed to provide an additional page for items that cannot be accommodated in one page but with only the first page reflecting the boxes for payment authorization, delivery authorization and the warrant number.

IV. IN-DOCK OPERATIONS

A. Current Situation

With the issuance of UR 2000/12 on 20 March 2000 providing for a provisional customs and tax regime, ETBS had to quickly put up not only a capacity to assess and collect revenue on imports and exports but likewise a control capability to forcefully enforce this important mandate. BSET relied completely on the shipping lines that also acted as the port operators (stevedoring and cargo handling) to insure that no shipment is delivered without an authorization from the Border Service. The military has been operating very much independently using its own equipment and personnel to take delivery of its own goods. The whole system was in the beginning based on trust that the shipping lines and the military will only take delivery of shipments already cleared by BSET.

ETBS has currently deployed at the Dili port a total of 71 local staff supervised by a number of foreign (some of these BSOs are undergoing on-the-job training at the port for later deployment to the still to be activated border crossing stations). The staff is deployed into 3 shifts with 2 teams to a shift. Team A is stationed at the port gate to check on cargo deliveries. The team's task is to verify the marks and numbers of the goods exiting the gate against the release documents presented by the importer (delivery order and photo copy of the delivery entry). Team B takes care of the entrance and clearance of vessels and supervises import discharges and export loadings.

Not part of any shift is a third group of about eight ladies accounting for the releases by filing the Central Fiscal Authority copy of entries unto each ship's manifest as well as the photocopies of the delivery entries presented by the importers. This procedure which was started on September 1, 2000 involves auditing the ship's manifest two weeks after arrival to identify unentered

shipments and overstaying goods and to verify their presence in the port. So far, no audit has yet been made but training is reportedly to be started with an officer from a contingent as trainor.

Two shipping lines act as the cargo handlers of Dili Port namely Perkins Shipping and Rooney's Shipping. They play multiple roles in the port, i.e., shipping agency, stevedoring, cargo handling and for some importers, customs broking as well. As soon as the vessel arrives and the ship's manifest is presented, the lines print Arrival Notices, a Delivery Orders and creates a ship's voyage file. The arrival notice is immediately sent or communicated to the importer so that he can immediately comply with customs clearance requirements. The delivery order is released to the importer only upon his presenting of the delivery authorization issued by BSET. This document is the basis of the equipment operators for loading the goods on the trucks. The particulars of the entry are then posted on the manifest on the ship's voyage file and the bill of lading highlighted to indicate delivery from the port. All un-highlighted bills cover shipments that should still be in port.

B. Issues

Little Value of the Physical Control Measures. It is very noticeable that the teams at the port gate are not actually matching the particulars of the shipments authorized for delivery as described in the release documents (in terms of numbers, marks and types of packaging) with those actually exiting. In theory, this matching is the control feature that insures only those with border service authorizations are released from the port. But the teams have been observed to be simply collecting the release documents. For the most of the day, team members are observed just huddled beside their office. This situation is even more pronounced in the case of the other team. That team is often huddled in a corner away from the vessels they should be 'supervising'.

Regular Stationing of BSOs and Control Points May Have Undesirable Consequences. Many Customs Administrations that had adopted physical controls involving the detail of customs officers at ships and at control points are now having difficulty stopping the practices that developed from it. One is the matter of the overtime pay for these officers which oftentimes results in enmities among customs officers. Not infrequently, these officers demand large sums from shipping agents making the port expensive to trade. The close association between Customs, Immigration and Quarantine Officers on the one hand and vessel crew on the other also leads to collusion to commit illegal activities from smuggling to prostitution.

Manifest Clearance System Not Optimally Positioned. The initiative by the BSET port staff to file the delivery orders and the CFA copies of the entry on each ship's manifest and accounting for all cargo discharged two weeks after vessel arrival is noteworthy. But this procedure should be more strategically placed at CREP rather than at the dock for the following reasons: (1) Entry details such as weight, measurement and marks and numbers can be compared with manifest information immediately and any discrepancy rectified. For example only by having the correct weight or quantity can the excise tax be computed correctly. (2) It is more useful, legal abandonment requirement as the consideration, to reflect the date the entry is filed on the manifest rather than the date the shipment is delivered from the port and (3) There is better assurance that the entry used to write off a manifest is an authentic delivery entry. As for the audit contemplated by the port staff, it may be advisable, considering the information on overstaying and abandoned goods can easily be obtained from the cargo handler, for the teams to go straight to auditing the cargo arrivals utilizing the cargo handler systems outputs. To insure reliability of the information developed by the cargo handler, their systems and files may be periodically audited as well.

Control of Exit Points Gives the Perception that BSET has Responsibility for Cargo Security. To enhance the capability of the BSET unit deployed at the dock to perform its functions, a draft Memorandum of Understanding (MOU) between the Controller BSET and the Port Manager has been prepared. The MOU identified the Port Authority as the 'Operator' of the port and as such has responsibility for providing area security and for adequate physical facilities including accommodations for BSET officials. But left hanging is the issue of who has responsibility for the duties and taxes on any cargo no longer in the docks for which no delivery authorization has been issued by BSET. It would seem that the border control officers are responsible because they physically man the port gates and only those they wave through are released.

No Single Entity Responsible for Cargo Security. The security issue is compounded by the fact that the Port Authority has only recently taken over management of the port and currently relies on the shipping companies for the physical movement of the goods. Ideally, there has to be a separate cargo handler for the port that would have responsibility for cargo security. The MOU must clearly provide that BSET has no responsibility for any damage, pilferage or loss of cargo in the port. Neither must the Port Authority be responsible. But what the MOU must provide is a statement that for the security of cargo, the Port Authority shall make the cargo handler responsible. In the meantime that the shipping companies and the cargo handlers are one and the same, then the Authority must make each one accountable. This is most important so that BSET will no longer have to bother about physically securing the goods but in collecting the correct duties and taxes on the goods.

C. Recommendations

Concept of Control. It would do well for ETBS to review the whole concept of port controls, move it away from the 24-hour physical stationing of personnel at the exit points and on board vessels and direct controls to the

selective but intensive checks and audits of cargo movements guided by risk management. Among such measures are vessel searches, spot verifications by roaming teams of loadings and unloading for legality of release documents, audit of shipping line books and records and searches of goods that per records should still be in port. These methods will drastically reduce the amount of manpower required and yet improve the effectiveness of controls. The current authorized strength of 40 personnel (71 is the actual number deployed) for the in-dock operations alone is high.

Reasoned Reliance on Partner Agency Systems. Making the cargo handler responsible for the duties and taxes on any lost shipment would give them sufficient motivation to implement effective inventory control systems. On the other hand, BSET for its information requirements should rely on partner stakeholder systems but taking precautions to insure dependability of the same. Following this principle, the Port unit can use the accounting system of the shipping lines to quickly identify un-entered and overstaying goods as well as goods released without BSET authorization. To insure reliability of the shipping line files, port staff can in the interim counter-check the delivery authorizations reflected therein against the records contained in the CREP accounting and statistical system. Later, the recommended CREP MCS described below should be the basis for the cargo accounting. In this way, BSET port officers can focus on the physical accounting of cargo at the port rather on maintaining a separate accounting system.

Manifest Clearance. Manifest clearance must be performed right after entry declaration reception at CREP. Initially, this may be undertaken on a manual basis but the process must be quickly moved into an automated environment. This functionality must be one of the 'must' modules to be provided by a customs software (see Chapter XI on Computerization). To avoid manifest clearance procedure from becoming an additional step and increase the cargo

clearance time, it is recommended that manifest clearance be done on a parallel basis (as opposed to sequential) to the existing declaration processing system.

Continue with the Current Control Measures on an Interim Basis Only. The present deployment of the BSOs at the port may be continued as an interim control procedure until conditions are appropriate for the shift to the new procedures. Outdated the measures may be, it illustrates in terms possible more understandable to the BSOs at this time the need for controls and its connection to the proper assessment and collection of revenue. It is also a good training environment for personnel who will be later on deployed at the land borders where the more appropriate control measure is the traditional method now enforced at the port. But the staff must be even now be made aware that there are more modern and effective ways of implementing controls, ways that are considered international best practices.

In the long run, BSET must completely withdraw from the port, rely on the port operator for the security of the goods therein and only every so often undertake audits just to make sure the port operator is performing its responsibility.

V. OFF-DOCK OPERATIONS

A. Current Situation

There are at present 14 off-dock facilities under customs supervision and control. Termed Bonded Warehouses, these facilities operate pursuant to Sections 20 to 25 Part VI of UD 2000/2. Three (3) of the 14 facilities are used for the storage of goods imported and owned by entities other than the operator himself. The warehouses operate as temporary storage facilities for the goods handled by the operator, normally a transportation company, pending presentation by the respective importers of the delivery authorization from BSET.

Majority of the facilities are licensed to receive goods owned and imported by the operator himself but for the purpose of re-selling these to tax-exempt entities. The goods may also be sold to non-exempt entities subject to payment of duties and taxes to BSET, however, the existing economic condition in East Timor are such that the only "able" buyers at this time are the exempt entities such as the UN Agencies, military contingents, humanitarian and relief organizations and NGOs.

Until recently, bonded warehouses were allowed to operate on verbal authorizations from the Controller, BSET. Among the reasons cited for the informal licensing procedure is the immediate need for such facilities and the congestion at the in-dock facility. In the case of the airport at Comoro, there was no temporary storage facility at all at the start of its operation as an international port of entry.

To formalize the grant of bonded warehouse authorizations to the 14 informally established warehouses and to better insure observance of the regulations governing their operations, there was drafted a supplemental guidelines to Part VI of UD 2000/2. A formal application is required from each

warehouse under this guideline stating among others the particulars of the facility, the conditions under which it will operate, the procedure it will observe regarding the transfer to, storage and release of goods from the warehouse to include the records it shall keep, maintain and make available to the officials of BSET. Part of the authorization formalization process is an audit of all goods entered into the facility from the start of operation. So far, only 4 of the 14 facilities have been audited and their authorizations formalized with the grant of a paper authorization signed by either the Controller or the Deputy Controller. No violations were discovered in the audits.

B. Issues

System Maybe Too Trusting. There are no checks in place to insure that a shipment covered by a warehousing is actually the shipment of the warehouse operator. BSET does not demand proof that the warehousing entry comes from the warehouse operator. The shipment is also not conducted to the off-dock facility. Neither is there a feedback mechanism that the shipment has actually reached the facility and that the operator is taking responsibility for it. Bonded warehouse facilities are traditionally high-risk areas for customs operations. As such, a variety of control mechanisms are normally deployed to better manage the risk among which are physical security, the posting of guarantees (as for example bonds) and systems controls both manual and electronic. Regular visitations and audits are also standard practice.

Bonded Warehouses Licensing has been an Informal Process. The first and most effective line of defense against threats in bonded warehouse operations is the authorization process. There must be a formal process to insure that the privilege is only given to deserving entities and only for meritorious reasons. For the protection of the approving authority, the regulation must clearly give him the power to deny applications whenever certain conditions are obtaining as for example when the applicant has had a history of delinquencies

and violations or has a criminal record. In the case of an off-dock temporary storage facility, the regulation must provide a limiting mechanism against the proliferation of such facilities as having too many can lead to destructive competition among the operators to the prejudice of government. It has happened in some administrations with a proliferation of these facilities that competition has gone down to the level of who would be most willing to turn a blind eye, cover up and even collude with the illegal activities of facility users.

Most Warehouses Caters to Exempt Entities. The policy of authorizing bonded warehouses catering to the requirements of tax exempt entities needs examination. Exempt entities should be encouraged to import their requirements directly rather than avail of the facilities of 'speculative', private bonded trading warehouses. The concept of bonded trading warehouses must be reserved for the storage of raw materials and supplies of manufacturing or processing entities operating customs bonded warehouses. As for the provisions and other requirements of diplomatic offices, UN and other international agencies, there is always the government run or authorized duty free shop should undertaking the importation themselves prove inconvenient.

Too few resources devoted to controls. For such a high-risk operations, the number of personnel assigned to control it is few. Only one Customs officer from the New Zealand contingent and her BSO assistant supervises the activities of all 14 bonded warehouses. The same offices are also involved in the evaluation of applications for authorizations and the writing of rules of operation of the bonded warehouses.

C. Recommendations

Controls must be strengthened. This is to insure that the off-dock facilities are not used as conduits for smuggling goods into the country.

Documentation must clearly show that the goods being entered under warehousing are the goods of the operator. The documentation of the transfer procedure must clearly show that the goods were received at the facility. The duties and taxes on the goods warehoused must be secured against likely illegal withdrawals.

More resources must be deployed to the supervision and control of off-dock facilities. The officers who are responsible for evaluating and endorsing to the Controller the applications for the establishment of the bonded facilities must be distinct and separate from those who will supervise and audit their operations. This is because the evaluation process needs more care and attention and there are presently only two officers doing this. It is also important from a check and balance standpoint that these functions be separated and assigned to separate offices.

It is advisable that the matter of supervising and auditing the goods transferred to the off-dock facilities be given to the same Teams supervising the deliveries and accounting of all shipments discharged at the docks.

The Licensing Process must be Formalized. The draft supplemental guidelines on the licensing of bonded warehouses is a good initiative and must now be finalized and formally implemented. The grant of the authorization for the ten other warehouses must be formalized using the guidelines but only after the required full audit of the transfers thus far has been completed.

Grant of License for the Warehousing of Goods for Exempt Entities Must be Discouraged. As a general rule, no bonded warehouse must be established for the purpose of catering to the needs of exempt entities. As a general rule, goods to be warehouse must pay duties and taxes upon withdrawal and within the allowable period of storage except in the case of manufacturing bonded warehouses for export. Experienced has been that such 'trading'

warehouses for 'exempt' entities have become conduits for smuggling. Exempt entities must import and clear their own requirements following the regular procedures rather than avail of warehousing

VI. AIRPORT OPERATIONS

A. Current Situation

Cargo Clearance

The main airlines with international flights into Dili are Qantas, Air North and Merpati Nusantara Airlines (MNA). The planes used are small passenger aircraft with hardly enough space for passenger baggage. It was observed that it is not unusual particularly on the MNA flights for accompanied baggage to be carried on a separate flight arriving several days after passenger arrival. The UN flights are not any better with space enough for only two pallets of baggage behind the passenger seats. The airport runway is also short such that bigger planes had to land at Baucau Airport, which is about 60 km east of Dili. At the moment therefore, the amount of commercial cargo coming in through the Comoro airport is very small.

There is no cargo terminal at Comoro airport. A pick-up truck transfers the baggage and cargo from the aircraft to a conveyor leading to the arrival hall. From there, baggage is taken inside the hall through a conveyor while cargo remains outside to be picked up by the respective agents.

With only a small amount of cargo, MNA's ground handling agent Servisus Transportes Aero Timor utilizes a 20-ft container at Comoro Airport as its bonded warehouse (actually a temporary storage facility). TNT air express cargo carried by Qantas is transferred to the customs bonded warehouse operated by the Australian Freight System (AFS) where a 20-ft container is used for storage. AFS is the service partner of TNT in the country. Other cargo is reportedly being immediately released many times even without BSET authorizations. Although there is a violation of regulations, officials believe there is no revenue loss as a result of the releases because the consignees were exempt. Notwithstanding,

Qantas's ground handling agent is reportedly already in the process of obtaining BSET authorization for their own temporary storage facility at the airport.

Information is that some businessmen bring in commercial goods not as air cargo but as accompanied baggage even if they have to pay additional for the excess baggage. The task for clearing these goods belongs to the BSOs at the passenger terminal (arrival area).

Should there be any goods found for which duties and taxes are payable, baggage. The two reports to the airport and to the CREP, which Tj 0 Tc -0.007 Tw (

The absence of a cargo terminal is now being remedied by the establishment of airline/ground handler bonded warehouses even though they are one-container affairs. What are needed now are clear cargo control and delivery authorization procedures.

Even at this very early stage, the demand of modern air transport is already threatening to create difficulties for BSET. Two air express companies have started operations in East Timor- TNT and DHL. And although the market is still very small at this time, it would not be long before Federal Express and UPS establishes foothold as well. Worldwide, these integrators have caused customs administrations to re-think and re-design their cargo clearance procedure and apply modern ways of handling not just air-express consignments but airfreight in general.

Passenger Clearance. - Save for a few names in an alert list, BSOs manning the immigration lanes have only the passports to work on in going about their task. The only information available to him from the standpoint of customs profiling is the frequency of travel and the places traveled by the passenger which are discernible from the passport. With very little to go by, the officer is unable to provide much assistance to his colleague manning the customs lane.

C. Recommendations

Temporary Storage Facilities. - As a general rule airline ground handlers must only take cargo to the designated temporary storage areas, which, for the present, are bonded containers. Until such time as an acceptable accounting system is set in place, these containers must have two locks, one with BSET and the other with the airline. This would insure that only those already issued authorizations are released. Realizing that physical controls like this can in fact prejudice efficient airport operations, an audit based control must be immediately

be agreed upon between the ground handler and BSET to replace this interim physical controls.

Terminal Releases. - Releases direct from planeside may be allowed but only for special classes of cargo. Perishable goods, newspaper and periodicals and urgently needed goods may be release upon arrival following special procedures to be set. Company materials and document cargo of air express companies may also be qualified terminal release.

Delayed Baggage. - A procedure for handling delayed baggage must also be issued even without the presence of the owner. In all cases however, the airline or its agent must obtain BSET authorization for the release of delayed baggage.

Manifest and Audit Based Control. - Being the main document of control, BSET must religiously require cargo manifest and secure the same. Airline companies must keep records of manifest and the release authorizations for all of the shipments contained therein. Audits similar to those recommended for in-dock controls are recommended.

Air Express Clearance Procedure. - The logic of this industry is speed. The companies have accordingly invested extensively in modern means of collecting shipment data and transmitting the same to all parties in the logistics chain including the customs services in real times. BSET must work with the companies in making use of the networks to provide advance processing of consignments in order that they may be delivered immediately to their addressees on arrival.

VII. IMMIGRATION

A. Current Situation

Although there are four designated entry and exit ports for both persons and goods into East Timor, only the airport at Camoro, the Port of Dili and the border crossing station at Batugade are currently open. Nonetheless, facilities are now being established at Maliana and Suai in preparation for the opening of those stations to the expected massive influx of refugees later this year.

There are two immigration functions already being performed by BSET. The first is the control on the movement of persons into and out of the country through the ports of entry and border stations. The second is the issuance of temporary travel documents to the East Timorese.

Movement Controls

Since East Timor does not have yet consular offices nor honorary consuls abroad, there is no visa requirement for travel into the country. But except for those specifically exempt under UNTAET Regulation 2000/9, persons seeking entry are required to have an entry permit. BSOs verify the travel documents of the person, which includes his arrival declaration card (BC Form 10), propounds questions to him and evaluates his admissibility pursuant to the regulation. If convinced that the person has none of the exclusions under Sec. 9 of the UR, he is issued an entry permit which is stamped on the passport the duration of which depends on the purpose of the visit but not for more than 90 days. Should he later need an extension, he has to present himself at the travel documents section at the BSET headquarters and to accomplish an extension of stay request. On exit, the person presents to BSOs a departure card (BC Form 11) together with his travel document.

All arrival and departure cards are collected and keyed into an Access program at the BSET Comoro Airport office. Once a week, the Intelligence Office at Headquarters downloads the week's transaction into a disk for uploading to the Intelligence System database.

Issuance of Temporary Travel Documents

UR 2000/9 recognizes the right of all persons to exit from East Timor, provided that they are in possession of necessary travel documents and are not subject to any orders or restrictions under applicable law. East Timorese without travel documents can obtain a Temporary Travel Document under the UN Convention of 28 September 1954 at the BSET Hqs. The application form requires information relating to the person's East Timorese legal status (applicant's place and date of birth; parent's place of birth) and a certification issued two individuals who know the applicant and are unaware of any reason why the application should be denied.

B. Issues

Issuance of Temporary Travel Document. - This is an on-going activity of BSET not clearly provided for under UR 2000/9 but the one that brings a large number of people to the central office every day. The legal basis (the only one) that may be used for BSET's conduct of this activity is the provision on the responsibility of the Controller to regulate the entry and exit of people to and from East Timor. It may be argued, however, that entry and exit may be regulated without the Service issuing travel document itself. Issuance of passports is most commonly a function of a Foreign Affairs Department (ETTA recently appointed a Cabinet Member for Foreign Affairs) because of the traditionally close working relationship between a country's immigration office and the foreign legations present in the country. But considering that East Timor does not yet have a foreign affairs office and that the nature of the work in travel document issuance

entails the establishment of an applicant's identity and qualification (person's date and place of birth and those of the parents, address and occupation), the office in the best position to verify the correctness of the submissions should be given this task.

Issuance of Entry Permits.- There is no clear-cut policy on the grant of entry permits. As a result, there were a number of incidents at the airport when arriving passengers were subjected to difficulties and even indignities. At this time when the country has very little of the skills needed to rebuild its economy and is encouraging investments to come in, a clear cut policy on issuance of working permits and a way of handling arriving workers must be established. The procedure for handling questionable arrivals must be clearly defined so as to avoid any embarrassment on the part of passengers and to BSET as well. Provisionally releasing persons to their prospective employers and guarantors must be resorted to whenever possible subject to their presentation of needed documentation satisfactory to the border service. Care must be instituted that the standards being used for arrivals in the country are those needed by the country rather than those enforced by the administrations of international officers assigned at the airports.

Accounting of Overstaying and Un-documented Aliens. - BSET is yet to undertake any operation to locate and take action against overstaying aliens. There is allegedly a desire to conduct such an operation in view of reports of undocumented aliens particularly in the hotel and restaurant businesses but there not enough personnel with sufficient training to do so. Such an activity would need time and resources and coordination with police agencies.

Deportation Hearings. - There probably would be just a few (if any) illegal and undocumented aliens at his time. And the country is still in the period of attracting investors and other visitors rather than putting up the brakes this early. At western borders, the refugees are still not coming back mainly because

of the militia presence. But it cannot be discounted that the situation may be taken advantaged of even now and should BSET actually commence operations against unaccounted aliens, they should already have in place Board of Special Inquiries or similar offices to hear deportation cases.

Limited Training. - The country's emergency situation did not allow for much better preparation for its border control officers. Those performing immigration functions in particular had very limited preparation for their job. Of the 7-days in the Basic Training Course, only one day was devoted to immigration matters. Officers were simply oriented on their responsibilities and powers, the nature and types of entry permits they will be issuing and a little of detecting fake immigration stamps. The consequence is that there are now expressions of concern as to the diligence with which officers are looking into the grounds for exclusion particularly the person's threat to security. There is now a proposal to expand the course to 3 months. Sessions will be added on, among others, verification of travel documents (passports, arrival and departure cards, tickets), behavioral analysis, dealing with difficult people and questioning techniques. But training is also needed on the use of the intelligence database and in particular the traveler's database. Officers must also be taught how primary and secondary inspections are related and the need for those manning primary inspection to provide the initial screening and detection for those in the secondary lane.

C. Recommendations

Devolve Travel Document Issuance. - Travel document issuance may be performed by the Border Service on an interim basis without prejudice to a decision on which government office is in the best position to perform this function (also discussed under Organization).

Issue Clear Guidelines on Entry Permits.- An inter-agency task group must immediately establish policy on entry permits. The views of commerce, industry, tourism and labor among others as well as the private sector must be solicited in the crafting of this policy which must be given widest dissemination.

Develop a Tracking System for Overstaying Aliens. - There should already be an accounting of the entry permits issued for the purpose of determining overstaying aliens. The system creating the database on arrivals and departures should be enhanced to regularly provide list of overstaying aliens. The system must be re-configured to provide tracking, matching arrivals with departures such that those remaining in the country beyond the period authorized are properly identified and accounted for.

Account for Overstaying and Undocumented Aliens. - Also without prejudice to a final determination as to whether or not BSET should take responsibility for this, it is advisable that an interim structure be set in place to undertake deportation proceedings against those who may be netted by an operation against overstaying and undocumented aliens.

Conduct of Intensive Training on Immigration Matters. - The amount of time and the number of subjects on immigration in the Basic Training Course of BSOs must be increased to improve the quality of the enforcement of immigration policies to include the courteous handling of legitimate visitors.

VIII. ORGANIZATION

A. Current Situation

UR 2000/09 gave to the BSET Controller the responsibility to establish such offices and administrative structures as may be necessary to carry out the purposes of the regulation. Currently, BSET is organized along functional lines at the headquarters level and geographically at the level of the ports of entry and border stations.

The Controller is assisted by two Deputies, one for Operations and one for Administration (presently vacant).

All paper processing associated with the assessment and collection of duties and taxes is centralized with the Customs Revenue Entry Processing (CREP) Division. Dutiable goods entering the country through the seaport, airport and the border station at Batugade (the open designated ports of entry) are entered, assessed and cleared for delivery at CREP which office is under the Deputy Controller for Operations. Also under the Operations Group are the units responsible for intelligence gathering, examination of goods and the supervision of off-dock bonded facilities.

Issuance of Temporary Travel Documents and the extension of Entry Permits are under the Deputy for Administration. Other support activities such as administration and general services, personnel, training and legal are also under Administration.

The seaport, airport and border station units are mainly involved in the processing of arriving/ departing passengers and crew. They are responsible for seeing to it that cargo remains in their stations until authorized for delivery is

CREP. These geographic units reports directly (as indicated in the organizational structure) to the Controller

UR 2000/9 provided that the head of BSET who has the title of Border Service Controller shall be appointed by the Transitional Administrator after consultation in the National Consultative Council. The Controller shall report to the Transitional Administrator through the Deputy Transitional Administrator for Governance and Public Administration.

B. Issues

To date, the organizational structure and the staffing pattern of BSET is still evolving and this is because the scope of its functions is also still evolving. The other departments of government with stakeholder interest on BSET are still in the process of thinking out their respective policies and methods of work as well as the relationships they intend to have with BSET.

Immigration Issues. - While there is already a consensus that the control of the movement of goods and persons at the ports and border stations is better performed in an integrated manner by a single agency whose services are 'shared' by several departments of government, there is still a dispute as to how far up the ladder the integration of immigration and other BSET functions should be undertaken. That while there seem to be no disagreement that the examination of a person's admissibility may be better handled in an integrated manner with other BSET activities actually performed at the borders, there are very strong reservations as to whether or not immigration activities not actually performed at the border but at some office in-land should be part of the integration as well. Among the non-border activities questioned are issuances of visas and travel documents as well as deportation proceedings. The Department of Internal Administration is of the view that the matter of setting policies and

laying down rules to include the grant of visas and the issuance of travel documents should be the concern of a separate Immigration Division.

Responsibility for Border Patrol. - There is also the issue of how much of the borders must be under the supervision and control of BSET. Responsibility for patrolling the countries maritime borders has already been more or less settled with BSET abandoning its plans to acquire maritime patrol capability. However, the issue of who has responsibility for patrolling the land borders with West Timor remains. Because of the threat of armed groups infiltrating into the country, only the international Peace Keeping Force (PKF) may have the capability to patrol the borders at this time. How long this serious security threat will remain at the country's borders requiring the presence of an equally strong and equipped East Timor armed force is difficult to tell except that it will not be for a short time. Currently, BSET can only provide presence and service at the entry stations and even there it had to rely on the PKF to provide security. Save for the BSET international contingents with police status and who carry side arms, all other personnel of BSET are unarmed.

A Defense Department is the process of being organized. In the interest of avoiding duplication of functions, to provide an effective deterrence to the adventurism of groups on the other side of the border and at the same time cut on cost, it is the thinking that this organization shall have responsibility for patrolling both the land borders and the maritime jurisdictions of the country.

Quarantine Issues. - The Division of Agricultural Affairs takes responsibility for establishing policy, technical regulations or standards and compliance procedures on plant and animal quarantine. However, there is yet no regulation on the matter although work is already in progress to have a draft regulation ready by the year's end. A visit by the Australian Quarantine Service has been made which is expected to result in some recommendations on the draft regulation. Two experts will also be engaged to help draft the regulation.

With a proposed maximum of 126 personnel in its service, the division intends to focus its efforts on being a catalyst of agricultural development such as by providing farmers the means to start production. The division does not envision itself to undertake enforcement of quarantine regulations, which is an activity it intends to rely on BSET as its enforcement arm specifically at the borders. But even such matters as accrediting certifying institutions for product standards, technical regulations and compliance are likewise being considered to be delegated to BSET.

Not having the needed equipment, money and trained staff to do testing, the division would also most likely adopt international standards and accept the certification by originating countries as to the compliance of imports with the standards. Controls would very likely then be paper controls rather than on the physical verification of compliance.

Revenue Issues. - The extent of revenue responsibility by BSET has thus far been the best defined. However this too has somewhat been muddled with the issuance of URs 2000/32. Under this regulation, the matter of collecting duties, taxes and other charges on imports became just a delegated responsibility of the Border Service Controller and subject to revocation by the Commissioner of the East Timor Revenue Service (ETRS) at any time. Revenues from imports constitutes close to 70% of total revenues and from all indications it will remain at this level and should even rise in the medium term. Revenues from the oil and gas exploration at the Timor Gap promises to provide significantly to the government purse but the expected revenue flows will still be further down the road. In the meantime, ETRS needs a lot of capacity building to put in place the needed arrangements and mechanisms for taxation. But ETRS is only just beginning and it does not expect to be 100 % operational for sometime. The service will have to rely on the services of internationals in as much as Timorization completion is expected only by year 2004. It has no choice then but

to rely in the meantime on direct taxation by the Border Service and just help the agency in this effort through proper supervision and control at least of its revenue generation activities. Tightening up on controls and regularly undertaking both financial and systems audit is a good place to start.

Reporting Relationship. - With several still 'organizing and mobilizing' government agencies delegating enforcement of some of their responsibilities to the 'first on the ground and operational ' BSET, each one jealous of the amount of attention that would be devoted to the other, it is understandable why the existing regulation places the service under the Transitional Administration. This means that no one department can dominate and any conflict resulting from the various delegated authorities can be resolved during cabinet meetings at the level of the Transitional Administrator. But come Independence Day, the position of Transitional Administrator will become President of the country and herein lays the weakness of this reporting structure. The President will be many more than what a Transitional Administrator is. In a democratic environment, the politics of the position will require that the President be more with the people and that his time will have to be divided between administering the government machinery and attending to the social and people demands on the office. An alternative reporting relationship is needed.

A favored thinking at this time is to make the Service as one of the Divisions of the Department of Internal Administration. This view seems to emphasize the control on the movement of people function of the service. The contending view is to make the Service as one of the sub-divisions of the Department of Finance (Central Fiscal Affairs office).

C. Recommendations

BSET as 'Shared Asset'. - The integrated customs and immigration control on the movement of persons and goods now being provided by BSET

should continue and should be the way for many other government services as well. At the ports of entry and border crossing points, examination of a person and his travel documents (passport, visa, plane ticket, government invitation and declarations) is an activity common to Quarantine, Immigration and Customs. That being the case, it might as well be that a single verification be undertaken to establish (1) qualification to enter the country from both the immigration and quarantine standpoints (2) likeliness of violating customs, tax and related laws. Viewed from this standpoint, the concern for a delineation of how much of the BSET resource is spent for customs as against the non-customs activities at the ports becomes a non-issue.

Shared Asset Must be Availed Off by Others. - On the clearance of goods, vesting the authority on a single agency is already a worldwide call on governments by such bodies as the World Customs Organization, the United Nations International Symposium on Trade Efficiency and the International Chambers of Commerce. Quarantine (health, agriculture and fisheries), product standards (food and drugs), intellectual property rights (pirated music, video disc and signature products among others) and all other government requirements for inspection or import authorization verification should be vested upon the multi-tasking border service officers.

Responsibility for Border Patrol. - It is advisable, however, that BSET focuses its operations at the designated ports of entry and border crossing stations. The very reason of the law empowering the Controller to designate the entry points (in most countries, the separate laws on immigration and customs empowers both heads of office to make the designation) is recognition of the impossibility for these organizations to effectively enforce the laws in the entire breath of its borders. In the same vein that several agencies of government should share a 'common asset' in BSET at the ports of entry, BSET should view the military and police units patrolling the frontiers outside the metes and bounds of the ports/stations as assets they could share in seeing to it that goods and

persons are conducted to the designated entry/exit points for the required BSET formalities and clearance. Instead of utilizing its resources on border patrols (an activity that can eat up a substantial part of its available resources), BSET may be better off just building up a strong intelligence capability and using the information gathered to coordinate operations with the agencies with border patrol responsibilities. BSET should 'patrol' not at the frontiers but in-land, using its visitorial powers and the powers of search, seizure and arrest to handle those that managed to slip through the frontline defenses. BSET must think of an overall 'Defense in Depth', taking the primary responsibility at the designated stations, coordinating with frontline agencies in controlling the 'in between' and developing the capability to undertake 'pursuit or follow up operations' in-land.

Responsibility for Policy and the Grant of Entitlements. - A policy is a definite course or method of action selected from among alternatives and in light of given conditions to determine present and future decisions. The strategy for raising revenues for government, the setting of product standards and technical regulations including the strategy for compliance enforcement and the grant of entitlements such as visas, travel documents, import licenses/quota/authorization and exemptions, are matters better left to the agencies of primary responsibilities and not part of the BSET mandate.

Reporting Relationship. - A government structure must be viewed as a 'living organism' that continually responds to the changing environment and to the priorities of the times. When the environment and the priorities change significantly such that the existing structure can no longer effectively respond, then it would be time to make structural changes.

The two major considerations that impact on how the BSET structure must be defined are (1) the still fragile peace and order conditions of the country particularly at the western border and (2) the need to quickly get on the road to nation building. These two concerns are really two sides of one coin- Security.

There is now a growing recognition and acceptance that the period of instability following the post consultation violence is already in the past. That while many more security issues remain, the country should now focus on the more difficult task of nation building. As in any building undertaking, finance is one of the most important construction resources.

Viewed in this light, the Border Service of East Timor must be first and foremost a revenue agency. This is particularly important at this time since the country has very little capacity and means to obtain revenues other than at the borders. For all the undesirable accompaniments, indirect taxation is what the country and the existing capabilities can reasonable effectively manage at this time. The Border Service cannot afford to be an 85 percent organization in this task.

Off course it is also highly desirable that the government be lean and highly cost efficient machinery. BSET must be a model of this ideal and must therefore be able to provide non-revenue services as well. At this growing up stage of government, BSET being multi-task is not just an ideal but also a necessity. Several agencies are still not ready to perform some of the tasks reposed on them and still needs BSET assistance. But the assistance can be extended through MOAs. Organizational integration should only be considered when the mechanisms of mutual assistance and cooperation fail to provide an acceptable result.

IX. PERSONNEL, TRAINING AND TIMORIZATION

B. Current Situation

Categories of Personnel

There are four groups of personnel comprising the Border Service of East Timor. The first is the UNTAET hired professionals group who provide general management for the Service. The Controller, Deputy Controller and the heads of revenue, personnel and general services among others make up this group. They hold office at the Headquarters of BSET.

The group is the UN Volunteers group who is likewise hired by UNTAET. They have been mainly acting as assistants to the first group officials.

The third is the contingents group provided by donor countries upon request by UNTAET. These officers with customs, immigration and police backgrounds (some are on detached service from their respective administrations) are paid for by the respective countries but they also receive mess and subsistence allowance from BSET. They act as supervisors to the fourth group below and provide them on the job training on the areas of operation they are assigned to (border controls, in-dock operations, airport operations, off-dock operations, entry processing, intelligence and travel document issuance). They are likewise responsible for the deployment, discipline and performance of the BSOs assigned to their respective areas of supervision. Also included in this group are those involved in the preparation of training courses and materials and the conduct of the training as well.

The fourth and biggest is the local Timorese Border Service Officers group. They were hired from the BSET budget and they serve as the frontline officials of the Service. They directly perform the task of border controls

(immigration functions), entrance and clearance of vessels and aircrafts, cargo control, entry processing and delivery authorization issuance. They undertake physical examination of selected shipments even as they undertake intelligence operations for the purpose of identifying goods most likely to be attendant with fraud.

Strength and Deployment

The current deployment of the BSOs is shown below. However, around 40 officers are currently undergoing training on Team Leaders Course and English course.

| | |
|--|-----|
| Dili Port | 71 |
| Camoro | 40 |
| Batugade | 9 |
| Salele | 9 |
| Others (CREP, Operations, Headquarters) | 40 |
| Total | 169 |

The local staff is reinforced by around 24 'contingents', 8 UN professionals and volunteers as well as 10 UNTAET hired locals

Education and Training

The minimum qualification to be a BSO is a secondary level education. However, there are reportedly reasons to suspect that some applicants do not meet this requirement but nonetheless managed to join the organization. There is difficulty verifying educational attainment claims because records were burned during the upheaval that followed the consultation. Some BSOs though have university education or some years of college education. The secondary educational requirement is not imposed on members of the Falantil.

A sizable segment of the BSOs (estimate vary from 40 to 60) served for various lengths of time and in various capacities in the Indonesian Customs Service although mostly at very low levels of responsibility.

All of the BSOs have completed the 7-day Basic Training Course, an interim entry-level training and requirement for deployment to stations. The large number of new recruits and the need to immediately provide presence in the various border stations necessitated the administration of a short and basic training course. Management intends to expand this course later on into a three-month program.

Sixty BSOs assigned to stations that involves dealing with passengers and importers were provided a six (6) weeks course in English run by Australians at the Civil Service Academy as part of the AusAid capacity building programmed. Five officers were given Portuguese language lessons at the same Academy.

BSOs assigned to handle personal computers were given training at the Communications Section of UNTAET.

Now on-going is a Team Leaders course. The 39 participants to this course have been selected by a panel of interviewers on the basis of their aptitude for leadership. They are earmarked to assume team leaders position after completion of training.

Timorization

Management from the Controller down to the office and area supervisor levels has been provided by internationals. Only recently were designations of locals issued to act as supervisors to the shifts and the teams manning the ports and stations.

The most visible sign that Timorization is underway is the manning of the immigration and customs counters both at the arrival and departure areas of the Comoro Airport by Timorese Border Service Officers. Less visible but also in the same level of work involvement are the BSO's at the Batugade border crossing station.

Highly visible in their presence and work they do are the BSO's manning the Customs gate at the Port of Dili. So are the BSOs performing entrance and clearance formalities for vessels arriving in the port.

At the BSET headquarters, the BSOs of CREP are already in charge and are able to attend to the day to day service even without a single international supervising them as the UN assigned at CREP has been on leave for sometime. The quality of the interventions on the entries filed needs improvement as discussed in the chapter on entry processing.

The intelligence and operations units probably have the best BSO's among the locals. They were reportedly well selected and all had served with the Indonesian Customs Service. Although less visible by the nature of their work, they are the most engaged among the locals at this time. They are involved in the selection of shipments for examination, in the actual examination of the goods, in establishing violations and the ascertainment of sanctions to be imposed and in the auditing of bonded warehouses.

B. Issues

Replacement of Departing Contingents. - The contingents perform three crucial roles in BSET at this time. The first is their supervisory role in the day-to-day operations of the various operating units. While the policy is for the local staff to actually perform the work, make the decisions and take action with the contingents only acting as trainers and coaches, the contingents are many

times thrown into actually doing the work because of the absence of a local staff who can perform the job. Many of the situations occurring at the workstations are also, 'new' for which the local staff has no knowledge and experience on. An example is the processing of air express consignments at the airport. Another is the licensing of bonded warehouses and temporary storage facilities. Still another is the entrance formality for sensitive air shipments arriving in Baucau and other places outside Dili. At headquarters, the processing and issuance of temporary travel documents as well as the processing of entry permit extension request are all being performed by the contingents.

The second role of the contingents is the development of systems and procedures for the conduct of the work. When a contingent arrives in a station and after taking stock of how work is done or is not done, he would invariably develop the needed capability for doing the work much better. This may be in the form of devising documents, writing systems and procedures or conducting training. The initiative taken by the supervisor of the Dili Port to draft a MOA between BSET and the Port Authority is an example. So is the implementation of a manifest clearance system there. The operations section has been re-accrediting bonded warehouses and putting up control systems in the process. The intelligence unit for its part has developed an intelligence database and has been populating it for some time now. This database would be very useful later on when the locals take full reigns of the service. Most of these initiatives were individual efforts based on the experiences of the officers from their respective country administrations.

A third role is the enforcement of discipline. At the moment, the locals are all of the same rank (Level 3) and their immediate superiors are the internationals and the contingents in particular.

Unless the local replacements are found through training of potential leaders and supervisors and / or outside hiring, there will no one to fill in the

shoes of departing contingents. Even now, the number of internationals who are performing roles 1 and 3 has been diminishing as no replacements were made for those who already left or completion of their respective tours of duty.

Take the case of the New Zealand Customs contingent. These six officers were selected from some 50 volunteers. The task given to them was to teach the local officers customs subjects such as port operations and vessel searches. But since the locals had only 7-day basic training before they were deployed to the stations, the internationals had to perform the role of supervisors and at times do the work themselves, teach the rudiments of the work on the job and write systems and procedures as they go along and in response to the situations they meet every day.

Three of the six contingent members have since returned to their administration and no replacement was made for them. The view now of the NZCS is to just send officers to address specifically defined problems and needs and for limited durations instead of a time based assignment. They will no longer be involved in day-to-day operation but will work to develop particular capabilities and development work and leave as soon as the work has been done.

Under Study Program. - For many aspects of BSET work, an informal understudy program is in place where the internationals are taking time to involve the locals in the decision making process as well as in the management and supervision of the unit. But the practice is not uniform across all units and levels. For some, no such program is in progress. The understudy program needs strengthening in the following activities:

1. Intelligence Productions, Risk Management and Selectivity
2. Evaluations and Approval of Off-Dock Facilities
3. Training
4. Systems Development and Computerization

5. General Management

Preparation for Top Management. - Preparation of Locals is either non-existent or most wanting for the top management positions. The Senior East Timorese Officer who is reportedly groomed to take over the BSET Controller position has been observed to be mainly involved in local staffing issues and out of the management and decision making loop. The difficulty is partly the result of the frequent absences of the senior officer concerned allegedly due to poor health. There are no understudies for the Deputy Controller and Section Chief positions at headquarters.

In the Darwin workshop, strong sentiments were raised that the Timorization process must start at the very top of the Service. That a talent search must be undertaken now and that whoever is selected must be appointed to the position by 30 November 2000. The thinking further goes that the new head should participate in the search for his deputies who must assume their respective post by 31 January 2001.

As for the incumbent BSET Controller and his deputies, the thinking seems to be that they must now act as advisers and coaches to the new appointees and play much the same roles as the contingents vis a vis the local BSOs. For how long the working arrangement should be will be left to the new Controller.

Absenteeism. - There is a very high level of absenteeism at the Batugade border station. For the month of August, the highest percentage attendance achieved was only 72%, worst recorded was 25% and the average for the month was 43%. The most commonly stated reason for the absence is sickness followed by death or problem in the family.

Morale of the personnel assign to Batugade is low because they have been with the border station from the time they were recruited in March. They were allegedly promised to be rotated back to Dili after 3 months at the border. With the rotation they also expect to receive the \$ 50 relocation allowance which is a separate issue. The management view is that the relocation allowance of \$ 50 is an annual entitlement. On the other hand, the staff sees the relocation pay as a monthly pay or at least a payment for every relocation. Contributing to the difficulty of a border assignment is the high cost of transport. One way fare is reportedly about 60,000 rupiah or \$7-8 representing 5% of employee salary. If they go home every week, transportation alone would cost them 40% of salary. It is therefore understandable for them to go on absence beginning at middle of the week all the way to weekend to maximize on their transportation cost. The border station itself does not offer much interest for anyone assigned there. The activity there for the most part has been the waiting. Lodging is a major problem. The lodging of the contingents are not any better. A lady officer lives in a tent while the male officers sleep under a common makeshift hut, which serves as their receiving and lounging room during daytime.

To address absenteeism at the border stations, management has taken firm action to discipline erring personnel. When the demands for explanation and warnings did not bring about the desired results, salary cuts and dismissals were resorted to. But realizing that there were also legitimate grievances, management implemented the policy of getting volunteers from among those who reside or have families at or close to the station.

To provide for interesting activity and English training at the same time, local staff is allowed to use the laptops of the internationals for playing computer educational software.

Need for Additional Personnel. - Management believes that the right strength of the service is 300. The difference of 90 officers from the present

strength (130 if we exclude the internationals) is for the still to be opened stations at Maliana Oecussi, Suai and Atauro, for the proposed Marine and Coastal Patrol and for the staff offices at Headquarters.

Personnel Compensation Scheme. - Aware that proper compensation is important to good and honest service, management hired most of the border service officers immediately at the third level with a monthly salary of \$154. But this amount is still insufficient particularly for those assigned at the borders. However BSET should not expect to be given differential and special treatment compared to other civil servants. Already, those serving in other government positions requiring higher educational attainment such as master's degree are not paid much higher than BSOs. The problem is more acute for the top management positions. With the present salary structure for senior government officials, it would be difficult to find good and qualified candidates for the position of Controller, Deputy Controller and other senior officials. Suggestions to entice East Timorese now employed in the northern territories of Australia to return and work in government and to continue receiving their salaries from the present employer has been considered but shelved based on the issues of conflict of interest and divided loyalties.

C. Recommendations

Border Service Officer Training. - The proposal to expand the Interim (Stop Gap) 7-day Basic Training Course into a 12-week Border Service Officer Training should be immediately implemented. The service performance now of the locals and their deficiencies in self-confidence, assertiveness, initiative and in general 'fire and passion' for their work may be due in part to their inadequate preparation for the job. Being placed under 'internationals', although a necessity at the beginning and to lesser degree to this time, may even be reinforcing rather eliminating the general feelings of inadequacy for the work and dispassion for the service. A better and more thorough preparation would have lessened the

knowledge gap between locals and internationals making communication between them more efficient and productive. The language barrier would have been a lesser problem and the on-the-job learning process would have been more fruitful if the student already has the basic understanding of concepts, familiarity with the basic methods of work and a reasonably good understanding of the whys and wherefores of the work. Equally important is the inculcation of service identification, discipline, morale and esprit de corps among the officers of the service. These training outcomes are as important as the technical requirements of the course. The 12 week course may be able to achieve the above ends much better if it is conducted in a 'military like learning institution' atmosphere where conduct, leadership (which includes followership), demeanor, aptitude for service and team building among others are given equal emphasis as learning the job itself.

Subject to the imperatives of insuring there are sufficient staff to man the stations and providing for a way of exempting some officers who by their performance have already shown attaining the required skills and aptitude of a Border Service Officer, all BSOs should go through the Border Service Officers Training Course as a requirement for retention in the Service.

Redefine the Role of Internationals. - As soon as the first batch of participants to the Team Leaders Course graduates, they should be fielded to the various offices and stations as supervisors so that the internationals and contingents can already concentrate on other concerns. Initially, the contingents should continue acting as coaches and resource persons to the newly designated local supervisors, assisting them devise procedures and better work methods and in the process help identify issues that top management must address. As soon as feasible, the contingents must be redeployed to offices that need to be established at headquarters with responsibilities for the activities described below.

Development of Central Staff for Doctrine, Audit, Training and IT. - So far, the intervention being undertaken by BSOs at CREP has been very basic manual processes. Entry declaration processing has been a matter of document completeness check and putting the various stamps evidencing completion of the various steps in the clearance process. The declared values for duty are hardly verified and so are the HS Codes, which is important for excise tax determination especially now that many more items have been recently added to the excisable goods list. But in order not to complicate and lengthen the cargo clearance process, it is now time that post release control teams be set in place and training be given in this customs technique. It would do well for a team of 5 to 6 officers be established at headquarters to concentrate on valuation, tariff classification and verification of exemptions. The team should be properly equipped and must be vested with authority to (1) review declarations for value, tariff classification and exemptions including historical declarations (2) issue assessments (3) access computer systems to review past transactions (4) access international information via internet and other sources and (5) visit importers and exporters and audit books and accounts

Preparation for Top Management. - A variant of the Darwin thinking that the appointment of a new Controller must be made on or before 30 November 2000 is the appointment of the prospective head to the vacant position of Deputy Controller for Administration. He can stay on this post for five months within which period he should focus on such matters as establishing audit capabilities and actually undertaking both financial and performance audits of the various units of BSET. He should also use the time to improve the recruitment process and training with the view to strengthening the Timorization process up to the level of section chiefs. On the basis of the audit results and the level of competence and skill attained by the locals, he can either refine or redraw the development program recommended herein. He should also be made the 'champion' of the computerization program without removing the primary and command responsibility of the Controller for this important project.

After five months, the incoming controller may be shifted to Deputy Controller for Operations position and the position of Deputy for Administration given to another local Timorese. By this time, all the section chiefs should already be occupied by locals with the UN professionals and Contingents acting as advisers/coaches to the local officers. He can stay in this position for the next 5 months and then assume as Controller with the former Controller Acting as his adviser.

The idea behind maintaining the incumbent Controller in his position instead of immediately relegating him into an advisor position is to insure that the momentum of development is sustained. It is important that he retains direct control over UN professionals, volunteers and contingents that are at present at the forefront of capability development and be able to maximize their contribution to the development of the organization. The strong control over the entire organization is for that matter important to insure that there is no diminution in the performance level of BSET in the course of Timorization.

The Division of Civil Service and Public Employment prescribed a 7-year post secondary degree for a division head. To this minimum qualification standard, the following are recommended as additional criteria in the search for the Border Service Controller:

- ❖ Managed an organization of at least 30 personnel for at least one year
- ❖ Reasonably good oral and written communication skills in English and one local language
- ❖ Had experience in the use of office automation and good working understanding of how information technology can improve organizational performance
- ❖ Had not been convicted of any offense involving moral turpitude, embezzlement of government or company funds and similar offense

Personnel Strength

The present 210 officers and men complement which includes the 32 internationals is already the right strength of the service. A significant part of the seventy local officers at the Port of Dili may be redeployed to other stations to include those border stations that may be opened in the coming months. Recruitment must be aimed at providing the staff to the offices at headquarters responsible for audits, doctrines, systems and procedures development, deployment of information and communication technology and training among others.

Compensation Scheme

Creative Solutions must be found to address pay related problems. Priority must be given to unwanted and hazardous stations. Among the schemes implemented in other administrations is the performance incentive scheme. There are at least two types depending on the source of the fund. The most common source is savings from the maintenance and operating component of the budget. The other is from the excess of collection over targets. A third source is the proceeds from the disposition of goods seized for violations of customs laws.

Payment for services rendered outside office hours is another source of additional compensation for border service officers. Many countries have made it as part of their law to require airlines, shipping lines and other transportation companies to defray the cost of service performed outside the official working hours by its border service officers. Unless manage properly however, overtime services may create dissensions and morale problems in the service since not everyone can be assigned to stations providing such a service.

X. COMPUTERIZATION

A. Current Situation

For a very young service, BSET has done well in implementing two computer applications in support of its Customs Revenue Entry Processing (CREP) Unit. Both applications use the Excel spreadsheet software.

The first software, which was made available from day one of BSET operations, is the entry declaration software. It forms part of a package given to importers and declarants together with the pertinent regulations, directives and guidelines on imports and exports. With this declaration software, importers are able to compose their entry declaration and print them for submission to BSET. In using this software, the declarant provides the goods description, their 4-digit HS Codes, quantities (for excisable goods, the units of measure are systems provided) and the Values For Duty (VFD) purposes. VFD is computed as the sum of the cost of the goods, the freight and the insurance. Should the declarant have no information on freight and insurance, a 15% (proxy for freight and insurance) uplift of the cost of goods is required.

The second application, which was implemented in July 2000, is the accounting and statistical application system. Entry details are encoded into the system after the issuance of the delivery authorization. For consumption entries as well as bonded store release entries, assessment and payment are keyed in as well. By comparison, only the importer and shipment particulars are keyed- in for warehousing entries.

Management makes use of this system to produce statistical reports of collections and exemptions broken down by type of tax/duty. The system is also used to identify transactions for which no payment has been paid to the banks.

Recently, the Treasury Office has been providing BSET with a listing of all payments credited to the corresponding Central Payments Office accounts with the agent bank with a directive to reconcile the list with the records of BSET. CREP intends to use the accounting and statistical application database for this requirement but has not started doing so. One reason given is the difficulty of comparing two long lists manually (a printed file vs. a spreadsheet file) and that the printed file is ordered by payment date whereas the spreadsheet file is ordered by record number.

Mention must also be made of the development of the Intelligence Database. The system is currently run on two stand alone PCs, one at headquarters and another at the BSET office in Comoro airport. One component of the database consists of passenger arrivals and departures through the airport. A second component contains the cargo selections for examinations and the result of the verifications. The third are the records of information received from all sources and the results of the verifications made.

C. Issues

Entry Declaration Software

One of the many responsibilities of an Entry Evaluator is to check the calculations of duty and tax. In actuality, however, hardly does he do so and simply assumes that the entry, being in the usual computerized format, must have been prepared with the use of the BSET provided declaration software and that the duties and taxes appearing therein as payables must be correct. Criminal elements may use their own software to prepare entry declarations with reduced amounts payable. The application programmer took precaution to password protect the BSET worksheet but the vulnerability of the process nonetheless remains which criminal elements may take advantage off when given the opportunity.

Accounting and Statistical Software

The system database serves a very important purpose but there appears to be no provision for securing it against tampering. Anyone of the CREP personnel maintaining the system can remove, change or modify records. Likewise, encoders may simply not encode a record in the system and it is already beyond the accounting system. For example, an entry may have a fake bank stamp to obtain release of the shipment. If the entry details are not encoded into the system, there is no more way of knowing that the shipment was not paid. The result is the same when the entry encoded but is subsequently removed.

Intelligence Database

Although very much in its infancy, this database can already be deployed to selected offices. What is needed is a little visioning on what useful information may be extracted from the available data and some programming effort to provide user- friendly query procedures. For the headquarters offices, a local area network is advisable and for the airport, diskette updating of the workstations may be resorted as an interim measure.

Not Enough Computer Resources and IT Skills

By adopting the 'client self-assessment' principle and giving trade an entry declaration preparation software, BSET is able to operate with very little need for computers. The presence of the international professional staff and the contingents from donor countries may be also preventing the exploitation of the system vulnerabilities. But with the eventual departure of the international staff, computer resources are needed to repair the vulnerabilities of the cargo clearance process. BSET has less than a dozen personal computers at this time and mainly from donations.

D. Recommendations

Short Term (December 2000 to February 2001)

In the short term, enhancements on the two computer systems must be made to support the recommended reengineering of the entry declaration processing and delivery authorization system. The features of these enhancements shall be incorporated into the ASYCUDA system that will be installed in the medium term.

Enhance the Declaration Software and Provide a Declaration Verification Program. The declaration software must generate a paper entry and a diskette entry both of which trade must submit to BSET. At CREP, a system will be available that will (a) read the declaration in the diskette, calculate the duty and tax payable using the latest update of the tariff database, compare the duties and taxes calculated against those contained in the submitted diskette and if they match, display the entry on the monitor; otherwise advise t CREP of the reason for the mismatch so that appropriate can be taken (b) after CREP had visually ascertained that the information appearing in the display monitor and the paper entry corresponds, assign a registration number and print it on the working copy of the entry (c) upload the declaration to the accounting and statistical database. This simple enhancement will not only insure that all submissions have correct calculations, the conduct of the accounting and statistical procedures will also be facilitated with the removal of the encoding of entries.

Improve the Security of the Accounting and Statistical System.- System security must be enhanced by providing levels of access such that only the administrator can amend a record. There must also be an audit trail of all transactions into the database.

Integrate the Declaration and the Accounting/Statistical Systems into a Network.- BSET should consider putting up a simple networked system that supports the re-engineered declaration procedure as above described and the accounting/ statistical system. One workstation will serve to check the diskette and paper submissions and upload the record to the database. Another workstation will be use to key in payment information and generate release authorizations that cargo handlers may use to authenticate documents presented to support the release of goods. A third workstation should be with the financial and accounting unit of BSET to reconcile Treasury or Agent Bank records of collections with BSET records. A program must be written to allow an automated matching of the files. The intelligence and operations section to include the entry evaluators must also be able to view the database to help in the selection of shipments for closer scrutiny such as by examination or the presentation of more information. Programs must be written to generate information that officers may use to guide their decisions (decision support systems). All these are doable within a short period of time with minimum investment in equipment.

Medium Term (March to July 2001)

In the medium term, BSET must put in place an on-line transaction processing system that will support the following objectives:

- 1. Facilitate trade and eliminate as much of the face-to-face interactions.** Opportunities for commission of negative bureaucratic behavior spawned by face to face interaction between the public and the BSET officials may be minimized by providing end to end automation in the entry declaration processing and delivery authorization procedures.
- 2. Insure the integrity of the payment system.** It appears that the agent bank already has an in-house system for receiving payments and creating a database of payments received. What is needed is for an

electronic way by which BSET can verify whether or not payment has already been received for any particular entry using the payment reference number assigned by the bank. BSET should work with the IT department of the bank set up this electronic on-line payment system as soon as the required telecommunication systems are made available in the country.

- 3. Insure that there is a safe transmittal channel for tax exemptions from a central body granting exemptions to BSET.** This channel must as much as possible be a computerized system using workflow software.
- 4. Optimize the benefits from selectivity by automating the process.** At present selectivity is either manually ascertained from a posted alert list or manually performed by the evaluator using his 'intuition'. The selectivity criteria must be incorporated into the entry processing software to remove discretion and insure uniform application of the criterion.
- 5. Insure no cargo is released without the BSET authorization.** Under the existing manual and open system, unauthorized releases using faked authorization stamps have a high probability of occurrence. Seamless links between BSET and cargo handler systems over which authorizations are to be transmitted must be set-up. The cargo handlers being the most concerned of possible illegal releases must be made to put up this capability as part of their license as port cargo handler.
- 6. Generate reliable and secured databases.** - Data bases on imports, exports, deliveries, transfers and payments generated and maintained to support the following: preparation of national trade statistics; performance analysis for both revenue generation and trade facilitation; decision support for enforcement and assessment operations and audits/ investigations.

Use of Software Package

There are generally two ways by which BSET can develop an integrated computer system to support the above described computerization objectives. The system should be an On-Line Transaction Processing System that also feeds into a Data Warehouse.

One way is to develop the system "from scratch". The other way is to acquire an existing package, customize it to fit the organization's methods of work and extend it to support the various other needs not covered by the package.

It has been the experience of many developing countries that it is best to use an existing application software package than to build one "from scratch". Acquisition of a package results in faster and less expensive development and ensures that the resulting computer system supports international standards and best practices. A Customs System package would typically include the following modules: (1) manifest clearance (2) import and export declaration procedures (3) selectivity (4) assessment of duties and taxes (5) physical inspections (6) payment and accounting (7) release notification (8) foreign trade statistics (9) transits and (10) suspense regimes. The database manager of a package may also be interfaced with a business intelligence system or with data warehouse software to provide decisions support both to the front and back-end operations of the organization.

There are three such package software's. ASYCUDA offered by UNCTAD, has by far the most users. SOFIX of the French customs administration and TIMS offered by Crown Agents, UK, have also been successfully implemented in other countries. Recently, Singapore Network Services (SNS) and the Societe Generale de Surveillance (SGS) has also successfully implemented their own version of a customs software in an African nation.

The Favored Solution

Attached marked Annex 'B' is a discussion paper on ASYCUDA implementation. The paper points out that the client-server architecture which fairly sized user administrations currently utilize require the availability of a number of resources that may not be present in BSET and in East Timor at this time.

Taking all the issues in the paper into mind, what is needed by BSET is an open solution that takes advantage of emerging technology. Fortunately for East Timor, ASYCUDA can now be operated through the Internet which is the solution being proposed for the Border Service. The proposed system must be capable of integrating all the players in the BSET community, even if they have no backroom systems running. Bank payments, delivery authorizations, exemptions and other sensitive documents can be posted into a website which the addressee can access through a password. For remote lodgment of entry declarations, a WEB-based declaration processing application will allow more importers and brokers to participate.

Time Table

ASYCUDA may be deployed in two phases. Phase I (April to September 2001) involves implementation of the system at headquarters on a local area network with the trading community submitting declarations on a diskette. Concerned offices needing to access the declaration database will be allowed to view it using the LAN. Payment details at the banks will be verified through a microwave lease line (dial-up may suffice at the start) and using ModAcc of ASYCUDA. On the other hand, release instructions may be transmitted to the cargo handler through fiber optic lines.

The following schedule for Phase I may be observing beginning July 2001. This would provide sufficient time for the locals to learn the use of the system preferably before the country's Independence Day at the end of 2001.

| | |
|--|---------|
| Hardware order and delivery | 8 weeks |
| Site preparation including cabling for the LAN | 4 weeks |
| Recruitment of staff | 4 weeks |
| Tariff build-up, including exemptions, tax relief's, etc | 6 weeks |
| Setting up customs procedures and simplifying tax computations and exemption application | 8 weeks |
| SAD configuration (Import and export) | 2 weeks |
| Installation and configuration of Asycuda (including preparation of filters) | 2 weeks |
| Awareness Training for Customs staff | 3 weeks |
| Training functional users (including encoders) | 3 weeks |
| Technical training | 2 weeks |
| Trading Community training | 4 weeks |
| Loading of reference tables | 1 week |
| Programming Taxation Rules | 2 weeks |
| Wiring the agent bank to Customs HQ (installing modacc at the agent bank) | 1 week |
| Parallel run | 2 weeks |

In Phase II of implementation (September to December 2001) and with the objective of maximizing the benefits of computerization, the entire trading community should be connected to the Customs network through Internet. The assumption is that by the second semester of next year, the telecommunication infrastructure in East Timor has already been rehabilitated, business will already

have sufficient telephone lines and there is already sufficient number of Internet service providers operating.

Long Term (2002-2005)

In the long term, BSET should continue with the momentum of its computerization program and be a champion of 'electronic commerce and electronic governance' in the country. Having established a base following completion of its medium term program, it should use its achievements in catalyzing IT development in the country with projects as the ones described below:

BSET-Department of Finance Computer Interface

The import and revenue database must be made available in a form and in a manner that the CFA may utilize in its policy analysis and advocacy functions including legislative support. The country's legislature will need trade and financial information in its law making function. For their parts, CFA and the budget office would need up to the minute information on revenues in support of its fiscal operations.

Electronic Import and Export Authorization System

Many offices of government will have regulations and policies governing trade. In most cases, these requirements will be in the form of licenses, quota, minimum access entitlements, quarantine permits, and the like. The modern prescription is that so as not to impede trade, enforcement of all these requirements must be coordinated upon a single agency following the concept of 'one window' into government. BSET should be that one government agency and information technology will be the window.

BSET Trade Information System

Trade statistics will be a by-product of BSET's on-line- transaction processing system. The database is a gold mine that it should exploit not only to support the information needs of government but also the information needs of trade. The service may consider collecting a fee for the information it provides which it may use to maintain and upgrade its system and network.

XI. DEVELOPMENT STRATEGY

Having been created just eight months ago, the Border Service of East Timor has concentrated, understandably, on the basics of establishing an administration where none previously existed. These included setting up offices, structures and facilities and the recruitment and training of staff even as the service attended to the day-to-day concerns of collecting revenue and providing controls on the movement of goods and people. In the haste to establish a presence all throughout the territory, the need to provide adequate training for the staff prior to deployment was compromised. To compensate for this lack of preparation, contingents from other countries were brought in. But the contingent's efforts, divided between imparting knowledge, formulating systems and procedures, making operational decisions and attending to personnel matters provided less than the expected results.

The revenue system for one may be characterized as 'can do for the moment.' As for operations, the methods employed on the control of transport, goods and people have been more form than substance. Systems and procedures development had been ad hoc, undertaken on the fringes of operational priorities and imperatives and when time permitted. Even lesser attention has been devoted to developing expertise necessary for the effective administration of valuation, tariff classification, audits and information technology. In fact, there is no headquarters organization dedicated to the development and monitoring of operational policies in these areas.

Clearly, the development program must in the short and medium term be directed at rectifying these gaps that to a large extent may be attributed to 'birth pains'. Beyond this, the development plan must provide a holistic response to the demands of the changing environment within which the service will be operating over the next 5-years and even beyond. This environment includes the expectations of government, the business community and the rest of society.

Part of the environment is the constraints that would put a limitation on the possibilities for the service and must therefore be addressed. Equally important are the available opportunities that may be harnessed to support developmental thrust.

The following factors should be considered in shaping the developmental strategy of the Border Service of East Timor:

Government will mainly rely on the BSET to provide revenues.

Direct taxation cannot be expected to contribute significantly in the short term as the needed structures and competency to effectively administer this form of taxation will not be available immediately. But the service cannot also expect dutiable imports to increase significantly in the short term, the revenue increases expected of it should come from increased efficiency, in being able to value goods correctly and in eliminating as much of the revenue leakages.

New business developments will pose special concerns for BSET.

One likely business development for the country is the establishment of a network of export processing and special economic zones. The experience of many customs administrations in developing economies is that the occurrence of abuses is common- place in these zones. The principle of 'free movement of goods' in the zone and the duty free regime there have been frequently taken advantage of to defraud government of revenues. The challenge to customs is how to provide a 'customs less' environment in the zone but at the same time insure that the facilitative regime there is not taken advantage of by criminal elements.

Another possible business development is the establishment of manufacturing warehouses. East Timor may be given special quotas under the

MFA. This plus the country's GSP status will make garments manufacturing for exports viable in the short term. Customs bonded manufacturing warehousing is the favored customs regime for this type of operation. Like with the zones, these facilities also pose special challenge to BSET.

Business will demand for better and cheaper service.

Competition in the world market for goods and services will progressively become more stiff so business will demand for an unimpeded flow of goods and people through the country's ports and border stations. Business will adopt state of the art business practices such as 'just in time' or even 'right here, right now' logistics system to which they would expect BSET to participate.

There will be moves for BSET to harmonize its processes with those of other countries in the region.

The economic groupings APEC and ASEAN as well as the customs organization of Oceania are all working on common action programs to simplify and harmonize their customs procedures. East Timor cannot ignore these developments if it wants to have a part in the activities of these economic groups.

Government will call for a lean but highly efficient bureaucracy.

Support from the UN, donor countries and international organizations for BSET will progressively be reduced. Government too will demand cost cutting measures. BSET will have lesser personnel to attend to an increasing demand for more and better service. Workload will have to be redistributed and personnel will have to improve efficiency.

BSET must complete the Timorization process.

The internationals now serving BSET will soon leave. The local staff must by that time be able to take on full responsibility and provide the same if not better level of service.

In this journey, the service should take advantage of the following windows of opportunities:

Presence of UN agencies with mandate to provide development assistance and of a large body of international experts in the country.

UNDP for one has a major program on capacity building and is currently undertaking a program on training needs analysis. BSET must actively participate in the process and actively flag its training and other needs and other UN Agencies along the lines identified in this strategic development program to obtain the priority it deserves.

Readiness of friendly governments, in particular of customs administrations, to provide assistance.

East Timor has the goodwill and admiration of many countries in the free world. They are sympathetic with the struggle the country is undertaking and would only be willing to help. Providing both material and technical expertise should not be a problem at this time. Among the most organized and prepared to provide for bilateral and multilateral assistance are the customs services. Even now, there are already several donor countries. BSET management has successfully tapped this resource and can continue doing so from those countries not yet involved.

Willingness of the business community (shipping lines, bank, cargo handler, air express companies and importers) contribute in the establishment of mutually beneficial structures and systems

Much of the 'community' that BSET works with have global presence and are exposed to the advance way of doing with a border service particularly customs. They are already operating proven system to facilitate and make more efficient the conduct of work. It would therefore not be difficult for them to respond to 'request' from BSET to help establish similar systems in East Timor. The shipping and airfreight community can be easily asked to help in an electronic manifest clearance system. The banks can put up electronic payments systems even with encryption and decryption security measures in place. As for the cargo handlers, it is in their interest to set up electronic and on-line release authorization systems with BSET. Trade itself already into electronic commerce in many parts of the world would welcome the leadership of BSET bring about electronic commerce and governance in the country.

A 'newly created' work force that is eager to learn, motivated to work and still relatively free of bad habits and traits

For many services in the world, reform and modernization is a very difficult undertaking. The problem is not the procurement of new and better technology for the conduct of work but in having to break down old habits and the almost total devotion to the old ways that provides personnel for many of their needs. Save for several officers who have had exposure in another country border service, majority of BSET officers are new and free of the habits in the old ways. Given the proper upbringing and a sustaining environment, they will only know of one kind of service, the service that BSET will bring them into.

A new country with leaders imbued with a strong sense of nationhood.

Leaders of many countries both in the legislative and the executive have motivations that make it difficult for their respective border services to reform and modernize. Their priorities are already strongly influenced by other interest other than nation building. BSET should make use of the opportunity to get the needed

legislations passed now and its modernization program supported by all concerned.

In the short term, the Border Service must:

- ❖ Immediately take on board the prospective Controller and his deputies, assign them to unfilled positions in the organization and make them part of the day to day decision making process as part of their training and preparation without reducing the capability of the incumbent Controller to sustain and even accelerate the phase of existing programs
- ❖ Strengthen the revenue and control systems, including the supporting computer systems and remove the potential sources of leakages and opportunities for fraud
- ❖ Realign controls from physical to audit based controls after clearly establishing responsibility for cargo security.
- ❖ Require cargo handlers to develop computerized cargo inventory systems through which delivery authorizations may be transmitted by BSET and which can generate reports to support cargo accounting.
- ❖ Undertake audit and reconciliation of assessments, payments, cargo arrivals, cargo releases, transfers, withdrawals and exemptions (see Annex 'C' for audit strategy).
- ❖ Deploy contingents to the development of methods of work following the new concept of controls and to the development of local capability for these methods of work
- ❖ Deploy local personnel who will be 'freed' following implementation of the revised work methods in cargo control to the additional examinations above described, to the supervision and control of off-dock facilities and to other high risks areas that will be identified in the audit process

- ❖ Continue the formal and informal training program of the locals and provide for a mechanism to weed out those that will not meet standards. Along this line, clear standards must be set passing the qualifying test for which must be a condition for retention in the service.

In the medium term, the Border Service must:

- ❖ Seek new mandate for the service that will allow it to focus on its core competency
- ❖ Establish linkages and working arrangements with government agencies responsible for policy and issuance of authorizations and entitlements
- ❖ Develop and implement an on-line transaction processing system for cargo and people that takes advantage of the latest advances in information technology. ASYCUDA is the recommended customs system in view of its track record, its adaptability to various customs environments including various ways of entry declaration reception procedures, i.e., service centers, direct trader input and electronic data interchange. Development work is now going on to add a fourth method based on web technology.
- ❖ Help organize the private sector so that they can participate in the development of the service, in the observance of and compliance to service laws rules and regulations and in identifying inefficiencies and irregularities
- ❖ Implement performance based incentive schemes to supplement employee compensation and to improve work performance

In the long term, the service must:

- ❖ Work for the enactment of a new customs code
- ❖ Help draft a immigration code

- ❖ Participate in activities of various customs organizations particularly in the region even in an observer status
- ❖ Organize visits of its officers to other administrations to see for themselves the possibilities and what they must strive for
- ❖ Participate in the WCO Reform and Modernization Program

TABLE 1
INVOICE VALUE OF SHIPMENTS FROM INDONESIA
28 September to 10 October 2000

| Warrant Number | Number of Containers | \$ Value Per Container | Declared Contents |
|-----------------------|-----------------------------|-------------------------------|--|
| 6944 | 4 | 3152 | Shoes, hats, belts, oil |
| 6937 | 3 | 861 | Articles of plastics |
| 6936 | 7 | 4200 | Television, video compact disc, tape, speakers, antenna |
| 6935 | 4 | 1760 | Assorted Noodles |
| 6934 | 1 | 590 | House wares, cosmetics |
| 6933 | 5 | 1163 | Television, antenna, hand and body oil, tooth paste, plastic stuff, sandals, biscuit |
| 6932 | 2 | 822 | Spring beds, 'campur' |
| 6929 | 1 | 1711 | Mesam super, biscuit marie, linlin putish |
| 6928 | 1 | 2290 | Bimoli, gelas plastic |
| 6927 | 1 | 2856 | Tempak kurpuk plastic |
| 6926 | 1 | 2524 | Piring plastic |
| 6925 | 1 | 2464 | Prestone |
| 6924 | 1 | 1754 | Fiting gantung |
| 6923 | 1 | 2523 | Jerigen plastic |

Annex A

Advantages of Using the Asycuda Package

The main advantages in deploying ASYCUDA for East Timor administration include:

- ❖ Deployment of the solution can be easily controlled and monitored, i.e. ASYCUDA is an extensively configurable off-the shelf package that can easily be integrated in an existing IT environment
- ❖ Support is available over the long term, i.e. 11 countries in Asia and the Pacific are already using ASYCUDA and a Regional ASYCUDA office based in Kuala Lumpur provides support including new releases
- ❖ ASYCUDA++ has become a de facto standard in Customs modernization and automation, i.e. 80 countries are using ASYCUDA today
- ❖ As the telecommunication infrastructure in East Timor improves ASYCUDA++ can move from a traditional to a web based solution, and be integrated with other applications that cover additional needs of the country's government
- ❖ ASYCUDA++ functionalities are not fixed. New releases are issued on average twice a year. This means that investment in its deployment does not limit the administration in its future technological choices.

Annex B

ASYCUDA Implementation Considerations

Requirements

Depending on the scope of the computerization and architecture of the system to be deployed, the requirements of implementation will vary. The following are required for a client-server and WAN implementation of ASYCUDA:

1. Network specialists (needed even for a LAN implementation), DB Administrators, Unix experts, Power users (for setting up the taxation rules and selectivity rules)
2. Hardware and system software support facilities that if not available in East Timor must at the very least be obtainable from such nearby cities as Singapore, Darwin or Jakarta
3. Sufficient staff to work on version updates since the client-server architecture of Asycuda requires work not only on the server application but on each of the client PC every time there is a version update.

Shifting the ASYCUDA platform from client-server architecture to WEB-based processing will mitigate the above requirements particularly requirement number 3. In this architecture, the client merely runs a WEB browser (Internet Explorer or Netscape Navigator) and all processing happens in the server. Versioning on the WEB-based system will only involve changing the server application. The client program, which is the browser, remains the same.

Cost

Asycuda implementation on a client-server architecture requires a fairly sized server even at the start. The operating system (Unix) and the RDBMS will add to the cost. Therefore, use of Asycuda just to process an average of 60 entries a day may not be cost effective. However, BSET can optimize the use of the Asycuda platform while declaration usage remains low, by housing the accounting and statistical database as well as running the intelligence software in the same server.

Telecommunications

There is a program for a tender process involving the rehabilitation of the available telecommunications facilities and the building of modern ones that promises to provide more than sufficient support for a nationwide ASYCUDA implementation in the medium term. The project is in the submission of interest to participate as of this time.

Readiness of Partners

The banks and the freight handlers should be ready for connectivity to BSET. At present, they do not have their own computerized in-house systems to interconnect with BSET. To optimize the computer facility, the freight forwarders must be made to submit manifest (including consolidation manifest) through the network, the payment details for the banks and the delivery authorizations for the cargo handlers. Exemptions should also be managed electronically.

Annex C

Audit Recommendations

Background

The various operational and financial transaction of the Border Service poses many risks to the proper collection of revenues by government. After a fraud has been successfully committed, the lack of proper controls on the keeping of records also makes it difficult for an investigating body to obtain documents to uncover the violation, to make the necessary rectification including the collection of revenue dues and to make the persons involved accountable for the fraud.

In many government organizations, the responsibility for insuring that proper records are kept and that transactions are reviewed to identify breaches is vested upon an external auditor. In the case of the East Timor Transitional Administration, the responsibility seems to fall under the Office of the Inspector General that at present is in the process of organization. In the interest of assisting the office establish its scope of work and formulate its methods and organizational structure and at the same time flesh out the audit recommendations recommended in Chapter XI of the report, the following audit methodology is submitted.

Threat Analysis

The below irregularities and fraud on government revenues have high likelihood of occurring as evidence by both actual and anecdotal evidence obtained in the study and must therefore be the focus of the audit by the Inspector General's Office for the purpose of recovering possible lost revenue

and the formulation of countermeasures both from a systems and records keeping standpoint.

1. **Submission of incomplete manifest to BSET by the ship's agent.-** The ship's cargo manifest is the basic document of cargo control by all customs services. It contains all the shipments on board a vessel for unloading in port(s) of the country. The master of the vessel or the ship's agent is by law required to submit complete information in the prescribed form before the vessel can commence unloading. The experience of many administrations is that the particulars of smuggled shipments, while contained in the official manifest of the shipping line are being removed by the ship's agents personnel in the copy of the manifest submitted to Customs. In this way, customs is unable to include the de-listed shipment in the accounting for un-entered shipments.
2. **Filing of entry declaration only on a portion of the entire shipment.-** A shipment consisting of several containers or packages may be properly manifested but then only a portion of the shipment is entered. The service is therefore denied revenue on the portion that is not entered. But the manifest entry will show that the bill of lading concerned has been entered and acquitted in the manifest.
3. **Shipments are released from the port without a valid delivery authorization.-** The cargo handler or port cargo manifest may or may not have a record of the release. If there is a record of the release, then the document referred to must be falsified or that it refers to another shipment. It may also be that there the manifest will show that the shipment has not been entered but the goods are no longer in the port or that the contents thereof have been substituted for trash or other low value contents
4. **Payments fraud.-**There can be many variations of this. The most obvious one is the falsification of the bank stamp that is easily copied. The stamp does not have any security feature and there is no authentication being done at CREP that the stamp is authentic. The other variation of bank

fraud involves the collecting officer not remitting the collection. The stamp to be used is authentic but the staff will deny putting the stamp on the document.

5. **Exemptions fraud.-** The most blatant form is the consignment of a shipment to an exempt entity without its knowledge or with the collusion of certain staff at the import office or of the shipping agent responsible for acknowledging or sending the notice of arrival. Since personnel at CREP only looks at the consignee appearing on the document and do not bother checking the exemption document, this fraud can easily be perpetuated. There is no format for the exemption document which many times is a simple statement that the consignee is an exempt entity. The signatories to the documents are not being verified. Another variant of the exemption fraud is for the agent of the exempt entity riding on the exemption privileges of the principal. For example, a construction company imports for the materials needed in the project of the exempt principal but also includes in it his own supplies and provisions. A third modus operandi involves the importation of exempt entities that actually goes to the domestic market. Included in this are the imports of relief and humanitarian organizations as well as by the military.
6. **Off-Dock Operations fraud.-** These shipments are covered by warehousing entries. But since CREP does not require proof that the warehousing entry filed was made by the operator nor is any guarantee or security required for the provisional release of the goods without payment of duties and taxes, it will be quite easy for criminal elements to consign goods to an off-dock facility and to divert the goods after release. Variants of this modus operandi take the form of whether or not any of the personnel or the operator himself is involved in the fraud.
7. **Under Valuation.-** This has been discussed in Chapter III of the report

Records Keeping Requirement

Some external auditors still make it mandatory that the office be furnished copies of the control documents to include cargo manifest, import and export entries and in the case of payments the official receipts. The external auditor would normally have a resident auditor in to receive the control documents and to review the transactions after the principal has completed the processing of the transactions. The problem with this arrangement is that the auditor does not normally have sufficient personnel to review all the transactions. After just a few years, the auditor's office gets filled up with documents that they cannot do anything of value with.

The advent of electronic commerce and electronic lodgment of control documents has brought about changes in the methods of work of external auditors from doing audits on the organizations paper documents to an audit of the electronic files. Instead of requiring that the control records be handed over to the office, the auditor can just rely on the principal's files be it paper or electronic.

In the short term, it would be advisable that legislation make mandatory the proper maintenance of and make available for inspection anytime the following documents by parties concerned:

1. Inward and outward cargo manifest.- By shipping lines, cargo handlers and by BSET.
2. Import and Export Entries to include the corresponding shipping and commercial documents.- By importers, brokers and representatives and by BSET
3. Bank official receipts of payment.- By the banks and the importers
4. Warehousing entries and supporting documents, log-books of receipts and withdrawals and the appropriate security.- By Off-Dock Facilities

Regular Audits

The following regular audits following an audit schedule maybe undertaken by the Inspector General's Office:

1. **Manifest Completeness Audit.-** A comparison of BSET manifest against the manifest maintained by the shipping line and the cargo handler.
2. **Un-entered and Overstaying Cargo audit.-** After insuring that the customs and cargo handler manifest is complete, account for all un-entered shipments to determine whether or not these are still in port and to institute abandonment proceedings as necessary.
3. **Bank Payments Reconciliation.-** To verify the records of payment as gathered by BSET with those collected by the agent bank and remitted to Treasury
4. **Cargo Handler Deliveries versus BSET Authorizations.-** To identify deliveries made by the cargo handler with no or spurious release document
5. **Tax Exempt Audits.-** To identify goods released exempt from payment of duties and taxes that have not been made by the agencies concerned as well as those actually made by them but were diverted to non-exempt purposes
6. **Audit of Bonded Warehouses.-** To identify shipments that per BSET and port records were transferred to an off-dock facility but where taken elsewhere. This also involves shipments actually received at the warehouse but illegally withdrawn or utilized for un-authorized purposes
7. **Under Valuation Audit.-** To support supplemental assessment of revenue on under valued goods focusing on those declared at less than the freight cost and/or the raw material cost.