TRIBUNAL DE RECURSO

OPINION ON THE GENERAL STATE ACCOUNTS FOR 2011

October 2012

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List of Abbreviations

ADN	Agência de Desenvolvimento National / National Development Agency
ANATL	Administração de Aeroportos e Navegação Aérea de Timor-Leste / Timor-Leste Administration of Airports and Aerial Navigation
APORTIL	Administração Portuária de Timor-Leste / TL Port Administration
GSA	Conta Geral do Estado / General State Accounts
CNA	Comissão Nacional de Aprovisionamento / National Procurement Commission
DL	Decreto-lei / Decree-Law
EDTL	Electricidade de Timor-Leste / Electricity of TL
EP	Empresa Pública / Public Company
FCTL	Fundo Consolidado de Timor-Leste / Consolidated Fund of TL
HCDF	Fundo de Desenvolvimento do Capital Humano Human Capital Development Fund
IF or FI	Fundo das Infrastructure / Infrastructure Fund
IGE	Instituto de Gestão de Equipamentos / Institute for Equipment Management
IP	Instituto Público / Public Institute
LOCC	Lei Orgânica da Câmara de Contas do Tribunal Superior Administrativo, Fiscal e de Contas / Organic Law for the Chamber of Accounts of the High Administrative, Tax and Audit Court
LOGF	Lei do Orçamento e Gestão Financeira / Budget and Financial Management Law
ISPAS	Normas Internacionais de Contabilidade para o Sector Público / International Standards for Public Sector Accounting
OGE	Orçamento Geral do State / General State Budget
RTTL	Rádio e Televisão de Timor-Leste
SAMES	Serviço Autónomo de Medicamentos e Equipamentos Médicos Autonomous Service for Medicine and Medical Equipment
SGP	Secretariado dos Grandes Projectos / Major Project Secretariat
USD	Dólares dos States Unidos da América / United States Dollar

I INTRODUCTION

Under the Constitution of the Democratic Republic of Timor-Leste, the High Administrative, Tax and Audit Court, has the sole responsibility, "to review the legality of public expenditure and the accounts of the State" (Article 129.3). This power is exercised by the Court of Appeal, which is the highest judicial body in the country, until the entry into office of the High Administrative, Tax and Account -- or the Supreme Court (Article 164) - allocation of competence is repeated in Article 84.1 of Law no. 9/2011 of 17 August, establishing the Chamber of Auditors of the High Administrative, Tax and Audit (LOCC).

Pursuant to Article 29 of the same law, the Court in its report and opinion on the GSA appreciates the activity of the state in the areas of revenue, expenses, treasury, the use of public credit and assets, namely on (a) the fulfillment of the Law no. 13/2009 of 21 October (Law on Budget and Financial Management - LOGF), as well as other complementary legislation on financial management applicable, (b) the comparison between revenues and expenses budgeted and actually incurred, (c) the balance sheet and inventory of state assets and equity as changes, (d) the execution of the multiannual programs of the state budget, with special reference to their annual installment (e) the movement of funds by treasury operations, broken down by types of operations, (f) the direct responsibilities of the State, under the assumption of liabilities or recourse to public credit, or indirect, including the granting of guarantees; (g) the support provided directly or indirectly by State, including grants, subsidies, tax breaks, credits, subsidies and financial guarantees; (h) the financial transactions abroad as well as the degree of compliance with the commitments it undertook.

The report and the opinion the Court should issue a judgment on the legality and correctness of financial transactions examined and may comment on the economy, efficiency and effectiveness of the management and reliability of their internal control systems, and make recommendations to Parliament or the Government in order to eliminate deficiencies in budget management, treasury, debt and assets, and the organization and operation of services.

The Report and Opinion on the General State Accounts (GSA) must be submitted to the National Parliament by the end of the year following that in respect of accounts, i.e. until 31 December.

Pursuant to Article 95.3(d) and (e) of the Constitution, the National Parliament "oversees the execution of the State budget" and "deliberates on the Plan and the State Budget and its execution reports."

The Report and Opinion on the General State Accounts (GSA) is intended to technically clarify for Parliament in the exercise of political power to control the financial activity of the State and it informs citizens, who are responsible for social control. The Parliament can also refer the opinion to prosecutors for possible enforcement of financial responsibility.

It is in compliance with these constitutional and legal precepts that the Court of Appeal presents this Report and Opinion on the GSA on the 2011 financial year.

II PRELIMINARY CONSIDERATIONS

This is the third Report and Opinion issued by the Court of Appeal, even without the technical support provided LOCC in order to make the monitoring of budget execution, either concurrently or in place of the GSA examination, from the point of view of technical accounting.

Similar to what happened in the reports and opinions on the accounts for 2009 and 2010, this Court considered not appoint an independent auditor under Article 42.3 of LOGF (as amended by Article

87 of LOCC) and currently contained in Article 41 of LOCC. Since the GSA been audited by a recognized international firm, Deloitte Touche Tohmatsu, hired by the government, it was decided to resort to the work done by this company, in the areas that we consider relevant. We requested the "letters of recommendation" of the independent auditor for the year 2011 (document prepared annually which synthesize the findings, observations and recommendations resulting from the work done during the year) which were not provided in time for the preparation of this Report and Opinion.

According to information provided by the Minister of Finance on 1 October 2012, in response to a request for clarification of this Court, the Ministry of Finance received the draft "letter of recommendation" on September 24, 2012 and the response to the independent external auditor is currently being analyzed and prepared.

Notwithstanding the response submitted, it is considered that this "letter" should be sent when drafting "Independent Auditor's Report" (issued on July 16, 2012), or at least in approximate date, which is not found this year.

The Directorate provided reports prepared by independent auditor since 2010, including "letters of advice" about the financial years 2009 and 2010, and "reviews" to procurement procedures.

Therefore, this Court ruled, also this time, issue this Report and Opinion on the GSA 2011, only based on information provided by the Government, without audit procedures, including external confirmations, to verify the information provided.

III BUDGET PROCESS

The State Budget (OGE) was approved by the National Parliament on 28 January 2011, by Law no. 1/II, 14 February 2011, the date it was published in the Official Gazette.

Article 9 of Law 1/ll created the Infrastructure Fund and Human Capital Development Fund, pursuant to the provisions of Article 32 of LOGF, and included the corresponding budgetary allocations for 2011.

Thus, OGE, for that year, encompassing all revenue and expenditure of the Consolidated Fund of Timor-Leste (FCTL) and "special funds" mentioned.

There was no amending budget presented by the Government for the year 2011.

IV PROCEDURE FOR ACCOUNTABILITY

The Government referred to this Court on July 23, 2012, the following documents for accountability for the financial year 2011:

- Consolidated Fund of Timor-Leste, Consolidated Financial Statements and the Annual Accounts;
- Infrastructure Fund (IF), Annual Financial Statements and Auditors;
- Human Capital Development Fund (HCDF), Annual Financial Statements and Auditors.

This Report and Opinion on the State Budget focuses on account documents FCTL, which includes the "Report of the Director of Treasury", the "Statement of responsibilities of the Ministry of Finance," the "Independent Auditor's Report", the "Consolidated Statement of Receipts and Cash Payments", the "Notes to Consolidated Financial Statements", and "Supplemental Unaudited Statements", each one of those "funds". It focuses also on the account documents and the IF and HCDF comprising their "reports of Director of Treasury", "Statements of Responsibilities of the Ministry of Finance", "Independent Auditor's Report", "Statements of Income and Cash Payments," "Notes to Financial Statements" and "Unaudited Supplementary Statements."

The financial statements of each of the "funds" mentioned are composed by "Statements of Cash Receipts and Payments" and the "Notes to Financial Statements", and were prepared in accordance with International Accounting Standard applicable to public sector financial reporting in Cash Basis (hereinafter only as "ISPAS Cash Basis"), thus giving effect to the provisions of Article 45 of LOGF.

Under the "ISPAS Cash Basis," entities to disclose publicly the approval of its budget should, upon reporting, provide a comparison of its initial budget, the final budget and its execution. The Government has made this disclosure in the "Report of the Director of the Treasury" and the "Notes to Financial Statements"

The basis of preparation of the "Statement of Cash Receipts and Payments" and disclosure of the execution of the State Budget are not the same, since they relate to different periods, i.e., while the former refers to receipts and payments made between 1 January and 31 December 2011, the second comprises payments made on behalf of the State Budget of 2011, between 1 January 2011 and 29 February 2012. The withholding tax on these payments is considered income for 2011. This system is internationally designated as "modified cash basis".

Thus, the budgetary, 2011, FCTL, IF and the HCDF were considered as made in the year the payments made between 1 January and 29 February 2012, the goods and services that were received by 31 December 2011, amounting to, respectively, $23.9 million, $20.0 million and $608,000, "Consolidated Statement" reconciliation and budget execution consisting of tables included in "Notes to Financial Statements."

Article 3 of LOGF says the budget is the annual budget for every appropriation expires after 31 December of the financial year. However, there have been payments beyond the end of the calendar year.

It is understood that payment cannot automatically terminate on 31 December, especially considering that the "single account system" adopted by the Treasury and the fact that almost all of the state payments are centralized in it, the volume of transactions and payments made (or to be made) at the end of the year can be so high as to make it impossible for all payments to be made by 31 December. However, it is important that this (supplementary) period for budget execution is reduced to the minimum possible to comply with the provisions of LOGF.

The Court notes as positive the fact that payments beyond December 31 have decreased 56.7% compared to the same period of the previous year, in which such payments totaled $55.3 million, an effort that should be maintained.

Regarding the submission of GSA to the Court of Appeal, should be taken into account in future modifications of the Law 13/2019 by Law 9/2011, particularly as the term that the current wording of Article 45 is 5 months of the end of the financial year, i.e. by 31 May, a deadline that was not fulfilled.

Moreover, and contrary to what was happening until the publication of LOCC, the "reports on the development of the budget," under Article 44 of LOGF as amended by Article 87 of Law 9/2011 must now be also formally sent to the Court of Appeal, despite being available on the Website of the Ministry of Finance.

V REPORT AND OPINION ON THE CONSOLIDATED FUND FOR TIMOR-LESTE

V.1 REPORT

V.1.1 Perimeter of Consolidation of Accounts

Documents presenting the FCTL accounts' financial statements comprise the Government of Timor-Leste that encompass receipts and expenditures of the ministries and their services and the following "autonomous institutions under the control of the entity" (Government) (Note 1 and 3)

- Electricity of Timor-Leste (EDTL);
- Administration of Airports and Air Navigation of Timor-Leste, EP (ANATL);
- Port Administration in Timor-Leste, IP (APORTIL);
- Institute of Equipment Management, IP (IGE);
- Autonomous Service of Medicines and Health Equipment, EP (SAMES);
- Radio and Television of Timor-Leste, EP (RTTL);
- Timor Gap, EP;
- National Bank of Commerce of Timor-Leste, EP.

According to the first note, not covered in FCTL the Petroleum Fund and the Central Bank of Timor-Leste since "(...) are made according to a special legal regime" (p. 16).

Given the budgetary principle of unity and universality, in Article 4 of LOGF, should be reflected in the financial statements FCTL revenues and expenses of the National Petroleum Authority (ANP), which is a "public institution", as required by the "ISPAS Cash Basis."

The same charge of ISPAS also applies to the Agency for the Management of Participation in Games (AGPJ), a legal person of public law, the management of which is under the Ministries of Tourism, Commerce and Industry and Social Solidarity.

In response the Minister of Finance has already mentioned, it was said, in relation to the ANP, that:

> "According to the treaty with Australia, the ANP is a distinct organization. Payments made through transfers to the ANP and dividends received, if any, are included in the accounts. However, revenue from ANP is not part of government revenues, being retained by it for their operations. Thus, revenues and other operational details of such public entities are not included in the annual financial statements of the government."

About AGPJ, stated that:

> "This entity did not receive transfers or allocations from the state budget during the year," retaining its revenues to finance their operations and are not, as is the case with the ANP, included in FCTL.

Notwithstanding the explanations given, the "Notes to Financial Statements" will always need to refer explicitly to such facts, since it is a relevant information is essential to define which entities encompassed the FCTL and which are not as well as the underlying criteria. In this domain, it is necessary to combine the obligations of LOGF with those resulting from the adoption of the "ISPAS Cash Basis" for the preparation of financial statements.

Subsequently, it is necessary for the consolidation of accounts resulting from the reading of account documents, which can be achieved through the introduction of additional information in the "Notes to Financial Statements."

V.1.2 Analysis of Budget Execution

Revenue

The state budget provided for the year 2011 total revenues of $2,398.7 million, of which $2,288.0 million (95%) is from oil and gas (designated oil). The estimate for domestic revenue (tax and non-tax) pointed to $110.7 million (about 5%).

Of the total domestic revenue provided for $19.2 million were "own revenues" from "autonomous funds and services", which includes, inter alia, EDTL, with revenues of $14.5 million.

Through the OGE Government was authorized to raise $1,055.0 million from the Petroleum Fund, of which $734.0 million corresponding to the Estimated Sustainable Income (ESI) and $321.0 million in the "additional withdrawals." Thus, the total estimated revenues for financing the state budget (FCTL and "special funds") was $1,165.7 million.

Table 1 - Estimated revenues vs. execution - FCTL.

million USD

FCTL Revenues	2011 Initial budget (1)	2011 Final budget (2)	2011 Revenue received (3)	2011 % Total revenue (4)	2011 % Rate of Execution (5)=(3)/(2)	2010 Revenue received (6)	Var. 11/10 (3/6)
I. Total Tax Revenues (A +B)	**64.9**	**64.9**	**73.0**	**6.3%**	**112.5%**	**50.1**	**45,7%**
A. Tax Revenues	42.6	42.6	50.7	4.4%	119.0%	31.9	58.8%
B. Other fees	22.3	22.3	22.3	1.9%	100.0%	18.2	22.8%
II. Total non-tax revenues (C + D)	26.6	26.6	15.6	1.3%	58.7%	32.8	-52.3%
C. Interest	0.1	0.1	0.1	0.0%	66.5%	0.1	-46.5%
D. User fees and other non-tax receipts	26.5	26.5	15.6	1.3%	58.7%	32.7	-52.4%
III. Petroleum Fund Capital Revenues	**1,055.0**	**1,055.0**	**1,055.0**	**90.9%**	**100.0%**	**811.0**	**30.1%**
IV. Total Treasury revenues (I + II + III)	1,146.5	1,146.5	1,143.6	98.5%	99.8%	893.9	27.9%
Autonomous Institutions							
E. EDTL	14.5	14.5	12.7	1.1%	87.9%	10.0	27.4%
F. APORTIL, IP	3.1	3.1	2.5	0.2%	81.7%	2.4	3.4%
G. ANATL, EP	1.3	1.3	1.3	0.1%	97.8%	1.2	3.0%
H. IGE, IP	0.0	0.0	0.1	0.0%		0.0	289.6%
I. SAMES	0.3	0.3	0.5	0.0%	154.4%		
V. Total Income Autonomous Inst (E+F+G+H+I)	19.2	19.2	17.1	1.5%	89.2%	13.7	24.8%
VI. Total Domestic Revenues (1+II+V)	**110.7**	**110.7**	**105.8**	**9.1%**	**95.5%**	**96.6**	**9.5%**
Total Revenues	**1,165.7**	**1,165.7**	**1,160.8**	**100.0%**	**99.6%,**	**907.6**	**27.9%**

Source: Consolidated Financial Statements and Annual Accounts FCTL - financial years 2010 and 2011

There were no adjustments to the revenue budget, so the "final budget" equals the "initial budget."

The execution of global revenues stood at $1.1608 billion, which corresponds to execution of almost 100% of predicted, indeed influenced by the weight of capital revenue from the Petroleum Fund, whose withdrawals were equal to the total authorized by the State Budget. The "domestic revenue" collected amounted to $105.8 million (96% predicted), and the "tax" reached $73.0 million (112%) and "non-tax" (including the proceeds of "autonomous institutions") $32.7 million (71%).

For the proper execution of the budget "tax revenue" contributed fundamentally a collection of "import duties" (60% more than expected) and "consumer rights" (24% more).

However, this "non-tax revenue" fell short of budgeted, due to the shortfall in revenue collected from the "sale of rice and interest" ($1 million), compared to the estimated $10 million, leaving their execution in 10%.

Under the "ISPAS Cash Basis," when there are material differences between the budget and its execution must be justified for them, which, for the previous paragraph, did not happen.

The independent auditor made a "reservation" to the accounts of 2011, given the existence of the cash "sale of rice" and receipts from the National University of Timor-Leste that were used in making expenses prior to posting and may, therefore, have revenues and expenses are not reflected in the financial statements.

Note that this "reserve" that was included in the auditor reports for the years 2009 and 2010, it is **recommended** that *steps be taken, first, to submit justification for materially relevant differences between the final and executed budgets and, second, the adoption of measures to ensure that all revenue and expenditure is accounted for in accordance with the principles of fiscal unity, universality and no compensation provided for in Articles 4 and 5 of LOGF.*

Budget execution reflects the accounting as (non-tax) domestic revenues EDTL and expense as "Goods and Services" of the Government, the amount of $1.4 million, for the supply of electricity by that entity to the various ministries and its services. Note that, for purposes of establishing the "Consolidated Statement of Cash Receipts and Payments," and under the "ISPAS Cash Basis" movements between public entities should be eliminated, which happened on the 2011 FCTL accounts.

Expense

The total expenditure in the state budget for the year 2011 amounted to $1,306.0 million, of which $681.7 million (52%) and FCTL $599.3 million (46%) of the IF. The remaining $25 million (2%) concerned the HCDF.

As already stated, this Report and Opinion focuses solely on the account documents FCTL, whose expenses amounted to $604.7 million, corresponding to a budget execution rate of 89%.

Table 2 - Estimated expenses vs. execution - FCTL

million USD

FCTL Expenditures	2011						2010	Var. 11/10 (4/7)
	Initial Budget (1)	Revisions (2)	Final Budget (3)	Spending executed (4)	% Total Expenses (5)	% Rate of execution (6)=(4)/(3)	Spending executed (7)	
Wages and salaries	116.8	1.0	117.8	111.6	18%	95%	91.5	22%
Goods and Services	269.2	-11.6	257.5	236.7	39%	92%	245.1	-3%
Transfers	177.5	-1.4	176.0	142.6	24%	81%	168.4	-15%
Minor Capital	29.3	3.1	32.3	27.2	4%	84%	38.1	-29%
Capital and Development	89.0	9.0	98.0	86.6	14%	88%	215.6	-60%
Total	**681.7**	**0.0**	**681.7**	**604.7**	**100%**	**89%**	**758.7**	**-20%**

Source: Consolidated Financial Statements and Annual Accounts FCTL - financial years 2010 and 2011.

The fall of 20% in total expenditure over the FCTL recorded in 2010 was due primarily to the creation of IF in 2011, which was performed by the vast majority of expenditure "capital development", which is why expenses incurred in those years are not directly comparable.

The following table presents the expense FCTL for "Features" and "categories" in 2011.

Table 3 - Expenditure by FCTL functions and categories

million USD

FCTL Expenditures	Recurring			Capital		Total	(%)
	Wages and salaries	Goods and Services	Transfers	Minor Capital	Capital & Develop.		
General Public Services	21.4	50.8	32.7	10.3	50.0	165.3	27%
Defense	5.7	16.9	0.0	5.4	2.6	30.7	5%
Public Order and Security	16.5	14.5		2.8	1.5	35.3	6%
Economic Affairs	12.2	97.7	11.2	2.7	28.7	152.4	25%
Environmental Protection	0.2	0.3	0.2	0.1		0.8	0%
Housing and Community						0.0	0%
Health	10.8	13.3	10.4	1.3	0.6	36.4	6%
Leisure, Culture and Religion	1.2	3.2	3.7	0.5	1.2	9.9	2%
Education	42.0	23.1		3.4	2.0	70.5	12%
Social Protection	1.5	16.9	84.4	0.6	0.0	103.5	17%
Total	**111.6**	**236.7**	**142.6**	**27.2**	**86.6**	**604.7**	**100%**

Source: Consolidated Financial Statements and Annual Accounts FCTL - financial years 2011.

The functions related to "general public services" and "economic affairs" were responsible for more than half (52%) of all expenditure incurred in 2011.

The execution of "budget entities" was as follows: **Table 4 - Expenditure FCTL by entities**

million USD

Budget Entities	2011						2010	Var. 11/10 (4)/(7)
	Initial budget (1)	Alteratio ns (2)	Final budget (3) = (1)+(2)	Executed spending (4)	% Total Expenses (5)	% Rate of Execution (6)=(4)/(3)	Expense Execution (7)	
President of the Republic	6.3		6.3	5.7	1%	91%	5.8	-2%
National Parliament	12.4		12.4	10.0	2%	80%	8.7	15%
Gab. PM e Pres. Conselho Ministers	48.7		48.7	43.8	7%	90%	19.5	125%
Sec. State Cons. Ministers	3.5	0.5	4.0	3.6	1%	90%	3.6	-1%
Sec. State Youth and Sport	6.2		6.2	6.1	1%	99%	5.0	24%
Sec. State Natural Resources	6.7		6.7	6.4	1%	96%	8.0	-20%
Sec. State Energy Policy	2.7		2.7	2.7	0%	97%	6.9	-61%
Sec. Est. Training and Employment	2.5		2.5	2.4	0%	93%	9.8	-76%
Sec. State Promotion of Equality	1.1		1.1	1.0	0%	93%	1.0	6%
Min. Defense & Security	52.2	4.2	56.4	51.5	9%	91%	53.8	-4%
Min. Foreign	18.7		18.7	15.7	3%	84%	12.0	31%
Min. Finance	13.9		13.9	13.0	2%	94%	25.8	-50%
Appropriations for all Government	64.8	-39.1	25.7	19.0	3%	74%	59.7	-68%
Min. Justice	8.0		8.0	7.7	1%	97%	11.2	-31%
Min. Health	37.1	1.4	38.6	36.2	6%	94%	34.4	5%
Min. Education & Culture	70.1	4.5	74.7	70.0	12%	94%	65.3	2%
Min. Adm. State & Orden. Território	47.0	0.4	47.4	44.6	7%	94%	46.4	-4%
Min. Economy and Development	8.6		8.6	8.2	1%	95%	8.0	3%
Min. Social Solidarity	115.7		118.7	897	15%	76%	99.3	-10%
Min. Infrastructure	41.9	-0.2	41.7	37.4	6%	90%	151.8	-75%
Min. Tourism, Commerce & Industry	25.2	0.3	25.5	22.7	4%	39%		
Min. Agriculture, Forests, Fisheries	13.4	1.4	14.8	14.6	2%	96%		
Courts	2.6	0.1	2.7	2.6	0%	95%	1.9	37%
Prosecutor-General	5.6		5.6	4.0	1%	72%	2.2	81%
Ombudsman for Human Rights	1.3		1.3	1.1	0%	88%	0.8	38%
Radio, Televisâo de Timor-Leste	3.1		3.1	2.9	0%	94%	2.6	9%
National Elections Commission	4.5		4.5	4.4	1%	97%	2.8	58%
Anti-Corruption Commission	2.1		2.1	1.2	0%	56%	0.5	137%
Public Service Commission	1.5		1.5	1.5	0%	100%	1.1	36%
APORTIL, IP	0.3		0.3	0.2	0%	90%	1.5	-85%
ANATL, EP	0.5	0.0	0.5	0.5	0%	100%	0.6	-13%
EDTL	48.2	23.8	72.0	71.0	12%	99%	22.3	219%
IGE, IP	1.3	0.0	1.4	1.0	0%	73%	11.0	-91%
SAMES, EP	1.1	2.5	3.5	2.5	0%	70%		
Total	**681.7**	**0.0**	**681.7**	**604.7**	**100%**	**89%**	**758.7**	**-20%**

Source: Consolidated Financial Statements and Annual Accounts FCTL - financial years 2010 and 2011

Under Article 45.2(j) of LOGF (as amended by Article 87 of LOCC), the final report on the General State Accounts will contain "details of contingency expenditure", establishing Article 22.3(i) of the same law, the same cannot exceed 5% of total expenses to accomplish in the year.

Were included in the "Supplementary Statements not Audited" tables containing the relationship of contingency expenses paid in 2011, whose value totaled \$29.5 million, representing 4.9% of expenditure incurred by FCTL, having thus been given compliance with those regulations. Of this amount, \$24.2 million was spent by the ministries and the remaining \$5.3 million through "Whole of Government Appropriations".

Finally, it refers to "reserve" the auditor of the accounts as the "payment of significant amounts of wages and salaries in cash," while the government identified in 2011 and 2010, cases of missing payments to employees as well as employees who had already stopped working. In this sense, and since "(...) the accuracy and completeness of the beneficiary population of such payments was not reliable," it was not possible "(...) conclude regarding validity of all payments made."

Given the above, it is **recommended** to *reduce the payments of wages and salaries in cash and to strictly necessary situations where there is no alternative hypothesis.*

Global Execution

In summary, the FCTL budget execution, in 2011, was as follows:

Table 5 - Global FCTL Budget Execution

million USD

	Final budget (1)	Executed Budget (2)	% (2) / (1)
Revenue	**1,165.7**	**1,160.8**	**100%**
1. Domestic Revenue	110.7	105.8	96%
2. Capital Receipts from the Petroleum Fund	1,055.0	1,055.0	100%
Expenses	**681.7**	**604.7**	**89%**
3. Recurrent Expenses	551.4	491.0	89%
4. Capital Expenses	130.4	113.8	87%
Transfers to Special Funds	**624.3**	**561.3**	**90%**
5. Infrastructure Fund	599.3	536.5	90%
6. Human Capital Development Fund	25.0	24.9	100%
Surplus / (Deficit)			
7. Recurrent Surplus / (Deficit) (1-3)	*-440.7*	*-385.2*	
8. Tax Surplus / (Deficit) (1-3-4)	*-1,195.3*	*-1,060.3*	
9. Fiscal deficit financed through:			
a. Capital Revenue from the Petroleum Fund	*1,055.0*	*1,055.0*	
b. Withdrawal of cash reserves	*140.3*	*5.3*	

Source: Consolidated Financial Statements and Annual Accounts FCTL-year 2011 financial

The "recurring deficit" (corresponding to the amount of recurrent expenditures not covered by domestic revenues) amounted to \$385.2 million, while the total fiscal deficit (non-oil) reached \$1,060.3 million, which was funded almost entirely by transfers from the Petroleum Fund in the amount of \$1055.0 million.

V.1.3 Consolidated Statement of Cash Receipts and Payments

The following table states the "Consolidated Statement of Receipts and Payments" in 2011.

Table 6 - Consolidated Statement of receipts and payments - FCTL

million USD

Consolidated Statement of Receipts and Payments (For the year ended December 31, 2011)	2011	2010	Var. 11/10
REVENUE			
Taxes	73.8	52.0	42%
External assistance	-	-	
Income from capital			
Capital revenue from the petroleum fund	1.055.0	811.0	30%
Commercial Activities	31.5	47.5	-34%
Total Revenue	1.160.3	910.5	27%
PAYMENTS			
Operations	-342.5	-347.8	-2%
Transfers	-143.7	-168.1	-15%
Capital expenditure	-148.5	-242.8	-39%
Payments for FCTL budget activities	-634.7	-758.7	-16%
Payments on behalf of the Infrastructure Fund	-78.8	-	
Payments on behalf of the HCDF	-1.5	-	
Transfers to special funds	-561.3	-	
Total payments	-1.276.3	-758.7	68%
Increase / (decrease) in Cash	-116.0	151.9	-176%
Cash at Beginning of January 1 of the year	321.7	169.8	89%
Cash at end of year	**205.7**	**321.7**	**-36%**
Represented by:			
Money in the bank	202.5	318.7	
Cash Advances	3.1	2.9	
Cash at end of year	**235.7**	**321.7**	

Total revenues were, in 2011, to $1.1603 billion representing an increase of 27% over the previous year, due to the increase in revenues from the Petroleum Fund.

The total payments went up 68% under essentially the increasing expenditure on public investment occurred in 2011 that led to the transfers to the "special funds".

The cash balance at the end of the year declined from $321.7 million to $205.7 million, or $116.0 million (-36%).

V.1.4 State Treasury

On December 31, 2011, the cash balance was $205.7 million (reflected in the "Consolidated Statement of Receipts and Payments"), consisting of $202.6 million in bank deposits (of which $200.9 million was in Central Bank of Timor-Leste) and $3.1 million in "cash equivalent" (and working capital advances).

At the end of the budgetary period (February 29, 2012), that balance was $182.0 million, of which $179.2 million was in deposits and $2.8 million in "cash equivalent".

The difference between the balances on the dates indicated resulted from the accounting of payments in the amount of $23.9 million, and its "withholding taxes" in the amount of $314,000, made between January 1, 2012 and February 29 of the same year, on account of the year 2011.

V.1.5 Foreign Assistance

According to the "ISPAS Cash Basis" must appear on the "Consolidated Statement of Receipts and Payments" payments made by third parties in respect of "foreign aid" that have resulted in a benefit to the State of Timor-Leste.

It provides, however, that the disclosure is made only in situations where the "third parties" (multilateral and bilateral donors) formally inform the government about the payments made by them or they may have confirmed their occurrence.

The Ministry of Finance established the "Aid Transparency Portal", with the aim of disclosing the amounts paid by third parties, through which donors can enter that information directly.

Without prejudice to the payments made by third parties that do not appear "Consolidated Statement," was included in Note 7 to the same, the information gathered through that portal, for the year 2011, according to which the Government received a total of $265.9 million in "foreign aid", of which $212.2 million from "bilateral donors,"$ 23.2 million of "multilateral donors" and $30.5 million of "UN institutions."

Nevertheless, and according to the Independent Auditor's Report, could not "confirm the completeness and accuracy of external support accounted for Consolidated Fund", as was reported by some donors that the amount recorded in the portal would not be correct, while others have not responded to their requests for external confirmation. These limitations have led to a "reserve" accounts of 2011.

Notwithstanding this obligation by the Government in its account documents is dependent on the cooperation provided by the "international donors", it should insist on their awareness of the need to provide accurate information on the payments made by it.

V.1.6 Public Debt

Financial

Until the adoption of Law no 13/2011 of 28 September, was not provided for the creation and issuance of (financial) debt by the State of Timor-Leste.

This article means that "the law approving the state budget, establishes, for each budget period, the general conditions governing the funding of the state and the constitution and issuing public debt, including the maximum amount of indebtedness authorized and maximum loans or other forms of debt," which only came about in the Law no. 16/2011 of 21 December, approving the state budget for 2012.

Non- Financial

The GSA has no information on the value of the debts of the Ministries and their services, as well as autonomous services and funds resulting from the provision of goods and services and the execution of works (non-financial debt), existing at the end of the financial year 2011.

In this sense, and considering the continuing obligation of Article 43.2(f) of LOGF as well as the importance of the dissemination of that information, the possibility also provided in "ISPAS cash basis", it is **recommended** that *it is listed in the GCE and the Treasury should for this purpose, keep current records of debts to suppliers of all public entities.*

V.1.7 Public Procurement

The independent external auditor conducted at the request of the Ministry of Finance, a "review" to the procurement procedures developed by 13 government entities, which covered the period between January 1, 2009 and June 30, 2011. Their reports were completed in July 2012.

In its report on the "Annual Financial Statements" FCTL, included the following "emphasis":

> "(...) During the period covered by the audit, there was a significant breach of the Decree-Law of Procurement and Best Practice Guide on the part of some public entities. This situation has created uncertainty (...), particularly with regard to the objective of optimizing expenditures, intended for procurement. "

In Note 6 to the "Consolidated Financial Statements" makes reference to the results of this "review" in the following terms:

> "The procurement was decentralized during the financial year 2010 in accordance with the Decree. 1/2010. Beyond the Law, the Ministry of Finance issued Guidelines for Best Procurement Practices to be followed by Operational Ministries before sending documentation for payments to the Ministry of Finance (...) An independent review of the procurement processes conducted by Deloitte (. ..) found that there was a considerable breach in relation to Decree-Law and Best Practice Guides, so it is unknown whether the desired objectives were achieved during the year, particularly with regard to good value for money. "

The Court cannot not express its concern at the findings of the "review" made.

In this sense, and regardless of the choices made in terms of procurement policy, particularly regarding the more or less centralized conduction processes, it is essential to establish a balance between the need to develop the performance of public expenditure effectively and to achieve high budget execution rates, and the establishment of basic control procedures to ensure that this is done in obedience to the law and principles of good governance, such as the economy, efficiency and effectiveness.

Given the above, it is **recommended** that *additional efforts be undertaken at the level of public institutions with responsibilities in the conduct of procurement processes in order to be assured of compliance, as well as the "Good Practice Guidelines" developed by the Ministry of Finance. These efforts should go in particular by strengthening human resources training.*

It is **recommended** , though, *that there should be an annual assessment of compliance of procurement and those "best practices" in particular as regards the preparation and inclusion in the account documents of the "Annual Procurement" ("Guide to Good Practice 8"), as a prerequisite for transparency in public procurement.*

V.2 CONCLUSIONS AND RECOMMENDATIONS

Given all of the above we stress the following observations and conclusions:

Process of Accountability

The government referred the documents relating to accountability FCTL, the IF and HCDF separately and in accordance with the international accounting standard applicable to public sector financial reporting on a cash basis.

However, this happened in remittance date after the time currently required by law, i.e., 5 months after the end of the financial year (current wording of Article 45 of LOGF).

The account documents include receipts and expenditures of the ministries and their services, as well as "autonomous institutions under the control of the entity." However, they are not included in these documents receipts and expenditures of the National Petroleum Authority and the Agency for the Management of Participation in Games.

Revenue Budget Execution

The total estimated revenues for 2011 to finance FCTL, IF and HCDF was $1,165.7 million, were actually collected from $1,160.8 million, corresponding to a budget execution rate of almost 100%. The withdrawals from the Petroleum Fund amounted to $1,055.0 million (amount authorized by the National Parliament) and the "domestic revenue" was of $105.8 million (96% predicted), composed of income "tax" of $73.0 USD (112%) and "non-tax" of $32.8 million (72%).

The "no tax" revenue from "rice sales and interest" stood at 10% of predicted was not presented justification for that poor execution, unlike established by the "ISPAS Cash Basis."

The auditor made a "reservation" to the accounts of 2011, given the existence of the cash "sale of rice" and revenue from the National University of Timor-Leste that was used in making expenses prior to posting and may therefore have revenue and expenses not reflected in the financial statements.

Expenditure Budget Execution

The total appropriation under OGE was $1,306.0 million, including $681.7 million from FCTL, $599.3 million USD from IF and the remaining $25.0 million from HCDF.

The expense actually performed by FCTL was $604.7 million, representing an execution rate of 89%, including 39% in "goods and services", 24% in "transfers" and 18% "wages and salaries."

The "contingency costs" amounted to $29.5 million, representing 4.9% of the total expenditure incurred by FCTL, having thus been within the limit of 5% set in LOGF.

The auditor noted the existence of significant amounts of payments of wages and salaries in cash and included a "reservation" to the accounts, considering that the accuracy and completeness of the beneficiary population of such payments was unreliable, did not it was possible to conclude the validity of all payments made. In turn, the government identified in 2011 and 2010, cases of payments to non-existent employees and officials who had already ended their work contracts.

Global Budget Execution

The "recurrent deficit" amounted to $385.2 million, while the total (non-oil) fiscal deficit reached $1,060.3 million, which was mostly financed by transfers from the Petroleum Fund in the amount of $1,055.0 million,

Consolidated Statement of Cash Payments to Income

The "Consolidated Statement of Cash Receipts and Payments" reflects the total revenue collected between January 1 and December 31, 2011, which amounted to $1,160.3 million. The total amount paid in that period was $1,276.3 million, justified by transfers made for "special funds".

The cash balance at year end of 2011 was $205.7 million, representing a decrease of $116.0 million (-36%), compared to $321.7 million of existing in 2010.

State Treasury

On February 29, 2012 and December 31, 2011, cash balances were $182.0 million and $205.7 million, respectively. The difference between them regarding accounting, from the budget of 2011, payments amounting to $23.9 million and revenue withholding taxes on these payments in the amount of $314,000.

Foreign Assistance

Pursuant to Note 7 to the "Consolidated Financial Statements" payments were made regarding "external assistance" for "bilateral donors," "multilateral" and "UN institutions" for the benefit of the Government of Timor-Leste, the value Total of $265.9 million, with, however, this information was subject to a "reservation" by the auditor, as it may not be correct, the fact that the Government of Timor-Leste is alien, once that it depends on the accuracy of information provided by those entities.

Financial Debt

We have not established or issued debt during the financial year 2011.

Non-Financial Debt

The FCTL account documents have no information on debt of public entities to existing suppliers in late 2011 from the purchase of goods and services or the implementation of works.

Public Procurement

The independent auditor performed, at the request of the Ministry of Finance, a "review" of the procurement procedures developed by 13 government entities, which covered the period between January 1, 2009 and June 30, 2011. As a result of this work the auditor concluded that a "significant breach" of the laws on procurement and the "Good Practice Guide", occurred in the period, which, in his opinion, has created uncertainty regarding the cost-effectiveness of purchases. The results of this "review" contained in Note 6 to the "Consolidated Financial Statements".

Mindful of the main conclusions and observations made in this Report and Opinion, it is **recommended,** pursuant to Article 29.3 of LOCC*, the adoption by the Government of the following measures:*

1) *Compliance with deadlines in LOGF and LOCC for the transmission of the General State Accounts and reports on the evolution of the budget to the Court of Appeal;*
2) *A clear definition of the scope of consolidation of accounts, with details of: entities included in FCTL, of all excluded entities and underlying criteria;*
3) *Greater control over the collection of revenue in cash, in particular, from the sale of rice and the National University of Timor-Leste, to avoid the existence of unaccounted income and expenses and ensure compliance with the budgetary principles of unity and universality and no compensation;*
4) *Presentation of justification for all material differences between the original budget, the final and execution of revenue and expenditure;*
5) *Reduction in payments of wages and salaries in cash and strictly necessary to situations where there is no alternative hypothesis;*
6) *Disclosure in the "Notes to Financial Statements" for information about the debts of all public entities to suppliers, resulting from the provision of goods and services, and the execution of works, existing at year end;*
7) *Development of additional efforts at public institutions with responsibilities for the conduct of procurement processes in order to be assured of compliance, as well as the "best practice guides" produced by the Ministry of Finance, which should include the strengthening of human resource training;*
8) *Annual assessment of compliance of procurement and "good practice guides" issued by the Ministry of Finance;*
9) *Preparation and inclusion of "Annual procurement" ("Guide to Good Practice 8") in the*

annual documents of FCTL.

V.3 OPINION

From the foregoing, pursuant to Articles 129.3, and 164 the CRDTL, 42 of LOGF, 12.1(a) and 29 LOCC of the Court of Appeal issues the following Opinion on the FCTL accounts:

Legality

The findings of the independent external auditor in its report on the financial statements of IF after "review" made by it to the provisioning procedures developed together of 13 public entities realize the significant failure of the legislation on procurement and "Guide to Good Practices," has raised further questions about compliance with the principles of economy, efficiency and effectiveness that should guide the execution of public expenditure.

Observance of LOGF, despite the limitations mentioned in this report, with regard to the principles of budgetary annuality, unity and universality and not compensation, it is considered that it was fulfilled in general.

Financial correction

Notwithstanding the conclusions and recommendations made in this report and opinion, as well as the possible effects that the "reservations" of the independent external auditor may have on the financial statements in relation to "external support" accounted for, the existence of cash receipts from sales of rice and the National University of Timor-Leste and expenses not accounted for, and the risk associated with the existence of "significant payments" of wages in cash, the Court of Appeal judges FCTL accounts validly given for the financial year 2011.

However, despite the overall favorable judgment issued by the Court here, and regardless of the choices made in terms of procurement policy, particularly regarding the more or less centralized conduction processes, it is essential to establish a balance between the need to develop effectively the performance of public expenditure and achieving high rates of budget execution, and establishing basic control procedures to ensure that this is done in obedience to the law and principles of good governance such as the economy, efficiency and efficacy.

VI REPORT AND OPINION ABOUT THE INFRASTRUCTURE FUND

VI.1 REPORT

VI.1.1 Characterization, Organization and Functioning

According to the Strategic Development Plan of Timor-Leste (2011-2030), the construction and maintenance of a range of productive infrastructure, in transport (such as roads, bridges, ports and airports), water and sanitation, electricity and telecommunications, is a necessary precondition for the development and modernization of the country. The same also defined priorities for public investment for that period.

With a view to implementing that plan, the IF was created to finance multiannual programs and projects in the areas of: a) Road infrastructure, including roads, bridges, ports and airports b) Power generators and distribution lines; c) Telecommunications d) infrastructure that promote flood protection, e) Installations for water treatment and sanitation facilities. The logistics infrastructure including storage (Article 9.1-9.2 of Law no. 1/11, cit.).

The creation of "funds" is regulated in Timorese law through Article 145.2 of CRDTL and Article 32.1 of Law 13/2009 of 21 October (Law on Budget and Financial Management - LOGF).

These legal devices that determine the formation of "funds" must (1) be approved by law and (2) conform to principles of "transparency / specification of expenses that the fund is intended to cover" (Judgment of the Court of Appeal, Proc. No. 01/CONST/2011/TR, published in the Official Gazette Series I, no. 5A, 14 February 2011).

The IF is regulated by Decree n. 8/2011 of March 18, which states in Article 3 that management lies in its Board of Directors, which is permanently composed of the Prime Minister, who chairs, the Minister of Finance and the Minister of Infrastructure. Other members of the Government, who relate to the programs and projects financed by the Fund (paragraph 3 of the same article), may be temporarily added to the Board of Directors.

The creation of the IF brought changes in the institutional management of procurement and projects, which involved, in addition to its Board of Directors, whose composition and duties are defined in Articles 3 and 4 in the DL 8/2011, the following entities:

- The Major Projects Secretariat (SGP) responsible for conducting united detailed analysis of submissions made by the Ministries for inclusion of projects in IF;
- The National Development Agency (ADN), established by Decree 11/2011 of 23 March, oversees the implementation of projects, validates their progress and carries out quality control;
- The National Procurement Commission (CNA), established by Decree 14/2011 of 30 March, leads the procurement of large scale projects included in the IF and is responsible for the issuance of a notice of procurement, the evaluation of proposals from different companies and the recommendation of the company with which the contract will be signed.

Through the Ministerial Diploma no. 9/2011, of 18 May, the Prime Minister approved the "Rules of Procedure of the Board and the process flow of the Infrastructure Fund", as provided in Article 16 of DL 8/2011.

Multi-year and large (over $1 million) Projects are included in the Infrastructure Fund.

With regard to "control and financial responsibility" of "background", Article 15 of DL 8/2011 which it is subject, with necessary adaptations, to the rules of Title VI of LOGF, the which provides, in particular, on matters such as the Opinion on the GSA (Article 42), the budget and accounting records (Article 43), reports on the evolution of the budget (Article 44) and the report on GSA (Article 45).

From the point of view of how the accounts of "funds" are to be presented and compared to the above stated, it should be similar to FCTL, or will be based on the international accounting standards for sector entities public to "cash accounting" ("ISPAS Cash Basis"), which happened on the accounts of 2011.

With regard to the deadline for delivery of the accounts documents to the Court of Appeal, the same should be sent in the same terms of FCTL, i.e. within 5 months after the end of the financial year to which they relate by virtue of Article 15 of DL 8/2011, cit., in conjunction with Article 45 of LOGF (as amended by Article 87 of LOCC).

The "special funds" are subject to the powers of financial control and jurisdiction of the Board of Auditors (Article 3.1(d) of LOCC), as well as to accountability (Article 37.1(h), the same Act).

VI.1.2 Analysis of Budget Execution

Revenue

The state budget provides for the year 2011 total IF revenues of $599.3 million.

According to the "Report of the Director of Treasury," and Note 8 to the "Financial Statements", were considered as FCTL income transfers worth $536.5 million. In the latter, were still considered revenue from "withholding taxes" and "bank interest" in the amount of $5.3 million and $1,000, respectively.

However, IF payments made by FCTL ($78.8 million) and HCDF ($108,000) "on behalf of the Infrastructure Fund" were not considered as revenue in the budget execution. According to Note 4 to the "Financial Statements", the realization of these payments was due to delays in "(...) the creation of administrative and operating fund pending the approval of the appropriate legislation."

These payments were recognized as income in the "Statement of Cash Receipts and Payments."

Table 7 - Adjustment to budgetary revenue execution - IF

USD (000)

Infrastrucure Fund Revenues	Initial budget	Final budget	Revenue executed	% rate of execution
1. Transfers from FCTL			*536,459*	
2. FCTL Payments on behalf of IF			*78,758*	
3. HCDF Payments on behalf of IF			*108*	
Total Appropriations in OGE (1+2+3)	**599,306**	**599,306**	**615,325**	**103%**

Considering those payments, execution of revenue due to the State Budget for 2011 reached 103%, not 90% contained in the "Report of the Director of Treasury" in Note 8 to the "Financial Statements". However, this means that were transferred in excess of $16.0 million FCTL to IF, i.e., above the appropriation approved by OGE.

In this sense, it is **recommended** that *this amount be regularized through their transfer to FCTL. The amount paid by HCDF on behalf of IF should also be regularized.*

Expense

The total expenditure in the state budget for the year 2011 was $599.3 million, for a total of 70 projects relating, in its entirety, the cost of "capital development" and divided by 12 Programs.

Table 8 - Capital Expenditure and Development for programs - IF

Programas	Orçamento Inicial (1)	Alterações (2)	Orçamento Final (3)	Despesa (4)	% Total da Despesa (5)	% Taxa de Execução (6) = (4) / (3)
Agricultura	1.819	815	2.634	2.183	0,5%	82,9%
Desenvolvimento Urbano e Rural	900	163	1.063	900	0,2%	84,7%
Edifícios Públicos	9.900	3.427	13.327	4.153	0,9%	31,2%
Educação	2.400	-1.956	444	299	0,1%	67,3%
Energia Eléctrica	448.742	0	448.742	428.921	90,4%	95,6%
Equipamento Informático	9.400	-200	9.200	4.309	0,9%	46,8%
Objectivos de Desenvolvimento do Milénio	65.000	-13.793	51.207	8.690	1,8%	17,0%
Saúde	1.670	2.984	4.654	2.182	0,5%	46,9%
Segurança e Defesa	3.912	4.022	7.934	2.954	0,6%	37,2%
Solidariedade social	1.650	-450	1.200	510	0,1%	42,5%
Tasi Mane	31.100	-12.175	18.925	8.687	1,8%	45,9%
Transportes	22.813	17.163	39.976	10.644	2,2%	26,6%
Total	599.306	0	599.306	474.432	100,0%	79,2%

Source: Annual Financial Statements and Accounts of the Infrastructure Fund - financial year 2011

Almost all of the expense related to "Electricity" with 90.4% ($428.9 million) in the year of the expenditure, primarily to the "Hera Central Electric Generators + Distribution and Transmission Lines" project ($426.9 million). In comparison with this program, the remaining 11 programs represented a relatively small value of about 10%.

The biggest changes occurred in the budget programs "Millennium Development Goals" and "Tasi Mane" where their budgets were reduced by $13.8 million and $12.2 million, respectively, and these amounts have been allocated, mostly, to the program "Transport". This was due to "(...) problems in land acquisition" for the first program, and the "lack of absorption capacity" by the second ("Report of the Director of Treasury," p. 8).

The overall execution rate was 79.2%, well under the "Electricity" where that reached 95.6%. The programs "Millennium Development Goals" and "Transport" were below 30%, with 8 of the 12 programs recorded execution of less than 50%.

Of the 70 projects included in IF, 29 had no financial execution in 2011, and 3 of these were not in the initial budget any funds for that year.

As discussed above, the spent $434.4 million in 2011, $78.8 million was paid by FCTL and $108,000 by HCDF.

VI.1.3 Statement of Receipts and Cash Payments

The following table states the "Statement of Receipts and Payments" in 2011.

Table 9 - Statement of receipts and payments in cash - IF

Statement of Receipts and Payments (For the year ended December 31, 2011)	2011
REVENUE	
Capital Revenue from FCTL	536,459
Withholding Taxes	4,661
Payments made by the Fund on behalf FCTL	78,758
Payments made by the Fund on behalf of HCDF	108
Total revenue	**620,186**
PAYMENTS	
Agriculture	-2,184
Urban and Rural Development	-472
Public Buildings	-2,746
Education	-159
Electric energy	-414,924,
Computer Equipment	-4,157
Millennium Development Goals	-8,690
Health	-1,256
Security and Defense	-2,818
Social Solidarity	-226
Tasi Mane	-8,305
Transport	-8,507
Total payments to the Fund's activities	**-454,442**
Payments on behalf of HCDF	-68
Total payments	**-454,510**
Cash increase/reduction	**165,676**
Cash at beginning of year	-
Increases in cash	165,676
Cash at end of year	**165,676**

Source: Annual Financial Statements and Annual Fund Infrastructure - 2011 financial year

Total revenues were, in 2011, to $620.2 million, of which $536.5 was transferred from FCTL. Were reflected in the accounts as income, the payments made by the HCDF FCTL and on behalf of IF, valued at $78.8 million and $108,000, respectively, as has the "ISPAS Cash Basis."

Reportedly, though, in the receipt in the "Statement of Receipts and Payments", the value of $4.9 million for the "withholding tax" revenues to be transferred to the FCTL.

The total payments due to IF activities were $454.4 million, having been made, also payments on behalf of HCDF in the amount of $68,000 USD, to be settled in 2012.

VI.1.4 Treasury Balance

On December 31, 2011, the cash balance was $165.7 million (reflected in the "Statement of Receipts and Payments"), which is deposited with the Central Bank of Timor-Leste.

At the end of the budgetary period (February 29, 2012), that balance totaled $146.1 million, composed also by deposit at the Bank.

The difference between the balances on the dates indicated resulted from the accounting of payments (and their "withholding taxes") made between 1 January and 29 February of 2012, on account of the year 2011. However, there is, in the account documents, a difference of $23,000, the result of the calculations and constant cash balance as at 29 February 2012.

In place of clarification, the Minister of Finance announced on 1 October 2012, which resulted from the fact that divergence of revenue from "withholding taxes" collected between 1 January 2012 and 29 February of the same year, having been $450,000.

This means that the revenue presented in the table set out in Note 8 to the Financial Statements is undervalued by $23,000 since only reflects revenues as "withholding taxes", the value of $427,000 not above $450,000 as indicated.

As mentioned in point VI.1.2, $16.0 million was transferred from excess FCTL and does not represent true "availability" of IF since it should be returned.

On the other hand, and proceeded to withholding taxes in the amount of $4.9 million on payments and receipts that constitute FCTL also this amount (included in the cash balance at the end of the year) is not "cash" in the IF.

Given the foregoing, and having regard to the provisions in "ISPAS Cash Basis," should have been included in the "Notes to Financial Statements", additional information about the value of "balance" that was not available to the Fund, which just happened respect of "withholding taxes" (Note 3) and not on the amount transferred in excess by FCTL and must be regularized.

Thus, it is **recommended** that *it be included in the "Notes to Financial Statements" information on all situations that limit or restrict the use of "cash balances" of IF.*

Vl.1.5 Non-Financial Debt

Documents accountability of IF have no information on the value of its debts to suppliers resulting from provision of goods and services, and the execution of works, existing at the end of the financial year 2011.

In this sense, and considering the constant obligation in Article 43.2(f), as well as the importance of knowledge and the dissemination of that information, possibility is also provided in the "ISPAS cash basis", it is **recommended** that *it is listed the "Statements Annual Financial and Accounts ", and for this purpose the Treasury keep current records of debts to suppliers.*

VI.1.6 Public Procurement

The independent external auditor conducted at the request of the Ministry of Finance, a "review" to the procurement procedures developed by 13 government entities, which covered the period between January 1, 2009 and June 30, 2011. Their reports were completed in July 2012. In its report on the "Annual Financial Statements" of the IF, included the following "emphasis":

> "(...) During the audit period covered under review, there was significant breach of the Decree-Law of Procurement and Best Practice Guide on the part of some public entities. This situation has created uncertainty (...), particularly with regard to the objective of optimizing expenditures, intended for procurement. "

In Note 7 to the "Financial Statements" is made of the results of this "review" in the following terms:

> "The procurement was decentralized during the financial year 2010 in accordance with the Decree. 1/2010. Beyond the Law, the Ministry of Finance issued Guidelines for Best Procurement Practices to be followed by Ministries Operational before sending documentation for payments to the Ministry of Finance (...) An independent review of procurement processes conducted by Deloitte (. ..) found that there was a considerable Failure in relation to Decree-Law and Best Practice Guides, so it is unknown whether the desired objectives were achieved during the year, particularly with regard to good value for money."

Notwithstanding this Report and Opinion not rule on the legality of the transactions underlying the expenditure incurred by the IF, given the limitations of the point cannot this Court must express its concern at the findings of the "review" made.

In this sense, and regardless of the choices made in terms of procurement policy, particularly regarding the more or less centralization conduction processes, it is essential to establish a balance between the need to develop effectively. the performance of public expenditure and achieve high rates of budget execution, and the establishment of basic control procedures to ensure that that is done in obedience to the law and principles of good governance such as the economy, efficiency and effectiveness.

Given the above, it is **recommended** that *additional efforts be undertaken at the level of public institutions with responsibilities for the conduct of procurement processes in order to be assured of compliance, as well as the "best practices" developed by the Ministry of Finance. These efforts should include the strengthening of human resources training.*

It is also **recommended** that *steps be taken to the annual assessment of compliance of procurement and those "good practice guides" in particular as regards the preparation and inclusion in the account documents of the "Annual Procurement" ("Good Practice Guide 8"), as a prerequisite for transparency in public procurement.*

This last recommendation applies in particular to the IF, given the nature of its programs / projects, which consist exclusively on investments in "Capital and Development", and who have underlying the development of pre-contractual procedures for the hiring of planners, team building inspection and construction companies infrastructure.

VI.1.7 Physical Implementation of Projects

Documents of the IF accounts do not include information concerning the physical execution of projects included in it, or any other information relating to the degree of achievement of objectives.

The "ISPAS cash basis" encourages entities that report that "base" to disclose performance indicators and achieving its objectives.

In this sense, considering the purposes that led to the creation of the fund, the nature of its activity, the large sums of public investment involved and the need to establish a relationship between the amount spent and the results achieved it is essential to disclose additional information about IF.

Thus, it is **recommended** that *is listed in account documents information on the results achieved, in relation in particular ã physical execution of projects, as well as the respective changes to the amounts of investment envisaged for its implementation (including all subsequent years).*

VI.2 CONCLUSIONS AND RECOMMENDATIONS

In view of everything stated above, we highlight the following observations and conclusions regarding the IF:

The government referred the account documents for FCTL, IF and HCDF separately and in accordance with the international accounting standard applicable to public sector financial reporting on a cash basis. However, these were submitted after the date currently required by law, i.e. 5 months after the financial year ends.

Although the period of budget execution was 1 January 2011 to 29 February 2012, i.e., exceeding the requirements of Article 3 of LOGF, "Statement of Cash Receipts and Payments" was drafted with reference to the year civil in accordance with the "ISPAS Base Case".

Revenue Budget Execution

The total estimated revenues for 2011 to fund the IF were$ 599.3 million. FCTL transfers were made amounting to $536.5 million and payments were made by FCTL and the HCDF, worth $78 million and $108,000, respectively, i.e. the total executed revenue was $615.3 million, equivalent to a rate of execution of 103%. Thus, it is considered that the transfers were made FCTL above appropriation approved by the State Budget in the amount of $16.0 million.

Expenditure Budget Execution

The total expenditure under OGE was $599.3 million for 70 projects spread over 12 programs. His execution was $474.4 million (79.2%) of which $428.9 million for the program "Electricity."

Statement of Receipts and Cash Payments

The "Statement of Cash Receipts and Payments" reflects the total revenue collected between January 1 and December 31, 2011, which amounted to $620.2 million. The total amount paid in that period was $454.4 million.

Treasury Balance

On February 29, 2012 and December 31, 2011, the cash balance was $146.1 million and $155.7 million, respectively. The difference between the balances shown on those dates regarding accounting, due to the 2011 budget, payments in the amount of $23.9 million, and income tax withholding on these payments, totaling $314,000. Should have been included in the "Notes to Financial Statements" information about the amount of $16.0 million transferred in excess by FCTL, in that are not true availabilities of IF and must be regularized.

Non-Financial Debt

There is no information in the IF account documents on existing debts to suppliers at the end of 2011 from the purchase of goods and services or the execution of works.

Public Procurement

At the request of the Ministry of Finance, the independent auditor conducted a "review" of the procurement procedures developed by 13 government entities, which covered the period between

January 1, 2009 and June 30, 2011. As a result of this work concluded that auditors have occurred in the period a "significant breach" of legislation on the procurement and "Good Practice Guides", which, in his opinion, has created uncertainty regarding the cost-benefit of purchases. The results of this "review" are contained in Note 7 to the "Financial Statements".

Physical Implementation of Projects

Account documents is not in the IF information on the physical implementation of projects included in it, or any other information relating to the degree of achievement of objectives, information considered relevant by the "ISPAS cash basis."

Mindful of the main conclusions and observations made in this Report and Opinion, it is **recommended,** *pursuant to LOCC Article 29.3 that the Government adopt the following measures:*

1) *Compliance with deadlines in LOGF and LOCC for delivery of account documents and reporting on budget developments to the Court of Appeal;*
2) *Adjustment of the amount of $16.0 million transferred in excess, for 2011, for the IF and the amount paid by HCDF on behalf of IF;*
3) *Inclusion in the "Notes to Financial Statements" of information on all situations that limit or restrict the use of "cash balances";*
4) *Disclosure in the "Notes to Financial Statements" of information about: debts to suppliers, resulting from the provision of goods and services and the execution of works, existing at year end;*
5) *Development of additional efforts at public institutions with responsibilities for the conduct of procurement processes, in sense of being assured compliance with the law, as well as "best practices" developed by the Ministry of Finance, which will include the strengthening of human resource training;*
6) *Annual assessment of compliance of procurement and "Guide: Best Practices" issued by the Ministry of Finance;*
7) *Development and inclusion of "Annual Procurement" ("Guide to Good Practice 8"), documents the provision of annual accounts of the IF;*
8) *Included in the account documents information on the results achieved, in relation in particular to the physical execution of projects, as well as related changes to the amounts of investment envisaged for its implementation (including the subsequent years).*

VI.3 OPINION

From the foregoing, pursuant to Articles 129.3, and 184 of CRDTL, 42 of LOGF, 12.1(a) and 29 LOCC of the Court of Appeal issues the following Opinion on the accountability of IF:

Legality

The findings of the independent external auditor in its report on the financial statements of IF after "review" made by it to the provisioning procedures developed together of 13 public entities, gives an account of significant non-compliance of the legislation on procurement and "Good Guides Practices ", has raised further questions about compliance with the principles of economy, efficiency and effectiveness that should guide the execution of public expenditure.

During the year 2011 was in general compliance with LOGF.

Financial correction

Given the conclusions drawn in this report and opinion and the recommendations made, the Court of Appeal, judges the IF accounts relating to the financial year 2011 as validly presented.

However, despite the overall favorable finding here issued by this Court, it is essential to establish basic control procedures to ensure that this is done in obedience to the law, the "best practices" and principles of good governance such as the economy, efficiency and effectiveness.

The creation of entities such as the STE, the ADN and the CNA seems to go in that direction. However, given the breadth of its responsibilities and the importance of their actions in relation to IF, it is essential that they are provided with the necessary human and material resources for the proper performance of their mission, without which are unlikely to be achieved the objectives with its creation.

VII REPORT AND OPINION ON THE FUND OF HUMAN CAPITAL DEVELOPMENT

VII.1 REPORT

VII.1.1 Characterization, Organisation and Functioning

According to the Strategic Development Plan of Timor-Leste (2011-2030), education and training are the keys to improving the life chances of the people of Timor-Leste, and also vital for economic growth and development of country.

Given the realization of that plan was created HCDF intended to fund programs and projects of the multi-annual training Timorese professionals in strategic sectors of development such as justice, health, education, infrastructure, agriculture, tourism, and oil management financial management, among others, which include activities and actions undertaken in Timor-Leste and the Timor-Leste citizen participation in training abroad, including scholarships for undergraduate and postgraduate (Article 9.1 and 9.4 of Law no. 1/II cit.).

The creation of "funds" is regulated in Timorese law through of Article 145.2 of CRDTL and Article 32.1 of Law no. 13/2009 of 21 October (Budget Law Financial Management - LOGF).

These legal devices that determine the formation of "funds" must (1) be approved by law and (2) comply with the principles of "transparency / specification of expenses that the fund is intended to cover" (Judgment of the Court of Appeal, Proc. No. 01/CONST/2011/TR, published in the Official Gazette, Series I, no. 5A, 14 February 2011).

The HCDF was regulated by Decree no. 12/2011 of 23 March, which provides in Article 3, that its management lies with its Board of Directors, which is composed of the Prime Minister, who chairs the Minister of Finance, the Minister of Justice, Minister of Education, the Secretary of State for Natural Resources and the Secretary of State for Vocational Training and Employment. They can also join the Board of Directors other members of the Government and other relevant entities that are related to the programs and projects financed by "the fund" (paragraph 3 of the same article).

Through the Ministerial Diploma n. 9/2011, of 13 April, the Prime Minister approved the "Rules of Procedure of the Board and the process flow of the Human Capital Development Fund", as provided in Article 17 of DL 12/2011.

With regard to "control and financial responsibility" of "the fund", Article 16 of DL 12/2011 which it is subject, with necessary alterations, the rules of Title VI of LOGF, which provides, in particular, on matters such as the Opinion on the GSA (Article 42), the budget and accounting records (Article 43), reports on the evolution of the budget (Article 44) and the report on the GSA (Article 45).

Accountability on the "funds" should be at all similar to FCTL, i.e. be based international accounting standards for public sector entities with "cash accounting" ("ISPAS cash basis"), which is what happened on the accounts of the 2011 HCDF.

The deadline for delivery of account documents to the Court of Appeal is the same as for FCTL, i.e. 5 months after the financial year to which they relate, under Article 16 of DL No 8/2011 in conjunction with Article 45 of LOGF.

The "special funds" are subject to the powers of financial control and jurisdiction of the Board of Auditors (Article 3.1(d) of LOCC), as well as to accountability (Article 37.1(h), the same Act).

VII.1.2 Analysis of Budget Execution

Revenue

The state budget provided for the year 2011 total revenues of HCDF of $25.0 million.

According to the "Report of the Director of Treasury," and Note 7 to the "Financial Statements", were considered as income transfers FCTL worth 24.9 million USD. In the latter, were still considered revenue from "withholding taxes" in the amount of $61,000.

However, they were not considered as revenue in the budget execution HCDF payments made by FCTL ($1.5 million) and IF ($68,000) "on behalf of the Fund for Development of Human Capital." According to Note 4 to the "Financial Statements", the realization of these payments was due to delays "(...) the creation of administrative and operating fund pending the approval of the appropriate legislation."

These payments were recognized as income in the "Statement of Cash Receipts and Payments."

Table 10 – Adjustments to revenue execution - HCDF

USD (000)

HCDF Revenue	Initial budget	Final budget	Revenue Execution	% Rate of Execution
1. Transfers from FCTL			24.882	
2. FCTL Payments on behalf of HCDF			1.523	
3. IF Payments on behalf of HCDF			68	
Total Appropriations from OGE (1+2+3)	**25.000**	**25.000**	**26.473**	**106%**

Considering those payments, execution of revenue due to the State Budget for 2011 reached 106%, not the 99.5% listed in the "Report of the Director of Treasury" (p. 8). However, this means that were transferred in excess of $1.4 million from FCTL to HCDF, i.e., above the appropriation approved by OGE.

In this sense, it is **recommended** that *this amount be regularized through their transfer to and from the FCTL and IF.*

Expense

The total expenditure in the state budget for the year 2011 was 25.0 million USD, for a total of 22 projects, spread over 4 Programs.

Table 11 - Expenditures for HCDF programs

USD (000)

Program	Initial budget (1)	Final budget (2)	Spending (3)	% of Total spending (4)	% Rate of execution (5)=(3)/(2)
Professional training	4 810	4 810	3 968	24%	82%
Technical Training	3,371	3,371	286	2%	8%
Scholarship	12,952	12,952	11,650	69%	90%
Other types of Training	3,867	3,867	899	5%	23%
Total	**25,000**	**25,000**	**16,802**	**100%**	**67%**

Source: Annual Financial Statements and the HCDF account - 2011 financial year
Note: Total may not reflect the sum of parts due to rounding.

The vast majority of expenses is for "Scholarships" with 69% (approximately $11.7 million), which highlight the "Project Grant for Students Finalists in Timor-Leste" projects and scholarships Portugal, Indonesia and Australia, responsible, overall, for 55.1% of total fund expenditure.

The overall execution rate was 67%, under the program "Scholarship" (90%) and "Vocational Training" (82%). The execution of "Technical Training" was below 10%.

As mentioned above, the $16.8 million executed in 2011, $1.5 million was paid by FCTL and $68,000 by IF. However, it should be noted at the outset that, according to the analysis contained in this report point VII.1.4 and Opinion, budget execution spending is overstated by $38,000.

VII.1.3 Income Statement to Cash Payments

The following table states the "Statement of Receipts and Payments" in 2011.

Table 12 - Statement of receipts and cash payments - HCDF

USD (000)

Statement of Receipts and Payments (For the year ended December 31, 2011)	2011
REVENUE	
Capital Revenue from FCTL	24,882
Withholding Taxes	61
Payments made by the Fund on behalf FCTL	1,523
Payments made by IF on behalf of the Fund	68
Total revenue	**26,534**
PAYMENTS	
Vocational Training	-3,884
Technical Training	-264
Scholarships	-11,261
Other Types of Training	-785
Total payments to the Fund's activities	**-16,194**
Payments on behalf of the Infrastructure Fund	-108
Total payments	**-16,302**
Cash increase/decrease	**10,232**
Cash at beginning of year	-
Increases in cash	10,232
Cash at end of year	**10,232**

Source: Annual Financial Statements and the Auditors HCDF - 2011 financial year

Total revenues in 2011 were $26.5 million, of which $24.8 is transfers from FCTL. As discussed above, payments were made by IF from FCTL and on behalf of HCDF, valued at $1.5 million and $68,000, respectively.

It must also include receipts in the "Statement of Receipts and Cash Payments" totaling $61,000 of "withholding tax" revenues that are to be transferred to the FCTL.

The total payments arising from the activities HCDF were $16.2 million, having been made, also payments on behalf of IF in the amount of $108,000, to be settled in 2012.

VII.1.4 Treasury Balance

On December 31, 2011, the cash balance was $10.2 million (reflected in "Income and Cash Payments Statement"), almost entirely on deposit with the Central Bank of Timor-Leste and $26,000 of "cash advances."

At the end of the budgetary period (February 29, 2012), that balance was $9.7 million, composed also of that bank deposit and "advances" of $38,000.

The difference between the balances on the dates indicated resulted from the accounting of payments made between 1 January 2012 and 29 February of the same year, on account of the year 2011. However, there is a difference of $41,000, between the result from the calculations and constant cash balance as at 29 February 2012.

In way of clarification, the Minister of Finance announced on 1 October 2012, which resulted from the fact that divergence of expenditure actually performed between 1 January 2012 and 29 February of the same year was $570,000 and revenue from "withholding taxes" collected in the same period of $3,000.

This means that the budgetary expenditure is overstated at $38,000 and revenue presented in the table set out in Note 7 to the Financial Statements is undervalued $3,000.

As mentioned in Point Vll.1.2 $1.4 million were transferred from excess FCTL, so do not correspond to actual "cash" since the HCDF must be returned

On the other hand, having HCDF proceeded to withholding taxes in the amount of $61,000 on payments made by it, and that revenues are FCTL also this amount (included in the cash balance at year end), not Availability is the HCDF.

Given the foregoing, and having regard to the provisions in "ISPAS cash basis," should have been included in the Notes to Financial Statements, additional information about the value of "balance" that was not available to the Fund, which just happened to respect "withholding taxes" (Note 3) and not on the amount transferred in excess by FCTL and must be regularized.

Thus, it is **recommended** that *it be included in the "Notes to Financial Statements" information on all situations that limit or restrict the use of "cash balances" of HCDF.*

VII.1.5 Non-Financial Debt

Documents of HCDF accounts do not have any information about the value of their debts to third parties arising from the performance of its existing programs at the end of financial year 2011.

In this sense, and considering the constant obligation of Article 43.2(f), as well as the importance of knowledge and the dissemination of that information, the possibility also provided in "ISPAS cash basis", it is **recommended** that it *is listed the Annual Financial Statements and Accounts ", and for this purpose the Treasury keep current records of debts to suppliers.*

VII.1.6 Performance Indicators

HCDF account documents do not include information on the degree of achievement of defined objectives, as regards, for example, the number of training activities and internships paid from the Fund.

The "ISPAS cash basis" encourages entities that report that "base" to disclose performance indicators and achieving its objectives.

In this sense, and considering the purposes that led to the creation of the fund, the nature of its activity, the amount of public investment involved and the need to establish a relationship between the amount spent and the results achieved and fundamental disclosure of additional information about HCDF.

Thus, it is **recommended** that *is listed in account documents information on the results achieved.*

VII.2 CONCLUSIONS AND RECOMMENDATIONS

Given all of the above if they are exposed to stress the following observations and conclusions about the Fund for Human Capital Development.

The government sent the documents relating to FCTL, IF and HCDF accounts separately and in accordance with the international accounting standard applicable to public sector financial reporting on a cash basis. However, this happened in remittance date after the time currently required by law (5 months after the end of the financial year).

Although the period of budget execution was 1 January 2011 and 29 February 2012, i.e., exceeding the date in Article 3 LOGF of the "Statement of Cash Receipts and Payments" was drafted with reference to calendar year, in accordance with the "ISPAS cash basis."

Revenue Budget Execution

The total estimated revenues for 2011 to finance HCDF was $25.0 million. FCTL transfers were made totaling $24.9 million and payments were made by the IF and FCTL, on behalf of HCDF, valued at $1.5 million and $68,000, respectively, i.e. the total revenue was $26.5 million, which corresponds to an execution rate of 106%. Thus, it is considered that the transfers were made FCTL above the appropriation approved by the State Budget in the amount of $1.4 million.

Expenditure Budget Execution

The total expenditure under OGE was $25.0 million for 22 projects spread over 4 programs. Its execution was $16.8 million (67%), of which $11.7 million for the program "Scholarship".

Statement of Receipts and Cash Payments

The "Statement of Cash Receipts and Payments" reflects the total revenues collected from 1 January and December 31, 2011 amounting to $26.5 million. The total amount paid in that period was $16.2 million.

Treasury Balance

On February 29, 2012 and December 31, 2011, the cash balance was $9.7 million and $10.2 million respectively. The difference between the balances shown on those dates regarding accounting, due to the 2011 budget, payments in the amount of $608,000. Should have been included in the "Notes to Financial Statements" information about the amount of $1.4 million transferred in excess by FCTL, in that it does not represent the true availabilities HCDF, and must be regularized.

Non-Financial Debt

It is not in the account documents of HCDF no information concerning the debts to third parties or results of implementing their programs (outcome indicators) at the end of fiscal 2011.

Performance Indicators

Account documents is not in the HCDF information on the degree of achievement of defined objectives, as regards, for example, the number of training activities and internships paid under the fund, information considered relevant by the "Cash Basis ISPAS."

Mindful of the main conclusions and observations made in this Report and Opinion, it is **recommended***, pursuant to LOCC Article 29.3, that the Government adopt the following measures:*

1) *Compliance with deadlines in LOGF and LOCC for delivery of documents and accountability reports on the development of the budget to the Court of Appeal;*
2) *Adjustment of the amount of $1.4 million, in excess transferred in 2011 to HCDF and the amount paid on behalf of the IF HCDF;*
3) *Inclusion in the "Notes to Financial Statements" for information on all situations that limit or restrict the use of "cash balances";*
4) *Disclosure in the "Notes to Financial Statements" for information on the creditors existing at the end of the year;*
5) *Included in the account documents information on the results achieved.*

VII.3 OPINION

From the foregoing, pursuant to Articles 129.3, and 164 of CRDTL, 42 of LOGF, 12.1(a) and 29 LOCC of the Court of Appeal issues the following Opinion on the accountability of HCDF:

Legality

During the year 2011 was, in general, complied with the LOGF.

Financial correction

Given the conclusions drawn in this report and opinion and the recommendations made, the Court of Appeal judges validly given HCDF accounts relating to the financial year 2011.

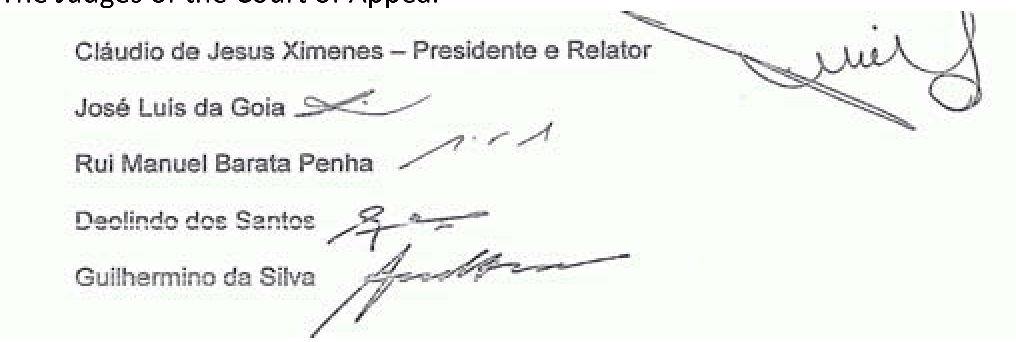
- Diligence

a) by sending a certified copy of the Report and Opinion of the National Parliament, under Article 42 of LOGF and 29.4, the LOCC;
b) the publication of the Report and Opinion in the Official Gazette, in accordance with the provisions of Article 7.1(a) of LOCC;
c) by sending a certified copy of the Report and Opinion on the Government for information.

- Timely, file.

Dili, 18 October 2012

The Judges of the Court of Appeal


Cláudio de Jesus Ximenes – Presidente e Relator
José Luís da Goia
Rui Manuel Barata Penha
Deolindo dos Santos
Guilhermino da Silva