

**DIRECTIONS RELATING TO THE POPULAR CONSULTATION OF THE PEOPLE OF
EAST TIMOR THROUGH A DIRECT BALLOT**

JUNE 1999

PREAMBLE

WHEREAS the Governments of Indonesia and Portugal, on May 5, 1999, in New York, entered into an Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor;

And WHEREAS the Governments of Indonesia and Portugal, in article 2 of that Agreement, have requested the Secretary-General of the United Nations to put to the East Timorese people, both inside and outside East Timor, for their consideration and acceptance or rejection through a popular consultation on the basis of a direct, secret and universal ballot, a proposed constitutional framework for a special autonomy for East Timor within the unitary Republic of Indonesia;

And WHEREAS the Governments of Indonesia and Portugal and the Secretary-General of the United Nations, on May 5, 1999, in New York, entered into an Agreement Regarding the Modalities for the Popular Consultation of the East Timorese Through a Direct Ballot;

And WHEREAS it is necessary, for the purposes of the consultation of the East Timorese people, to define the manner in which staff and employees of the United Nations are to undertake tasks associated with the conduct of the consultation.

I therefore now give the following directions.

Ian Martin

Special Representative
of the Secretary-General
for the East Timor Popular Consultation

18 June 1999

PART I - PRELIMINARY

Direction 1 - Interpretation

(1) In these directions, unless the contrary intention appears:

"AEC" means the Australian Electoral Commission constituted under the *Commonwealth Electoral Act 1918* of the Commonwealth of Australia;

"Agreement" means the Agreement between the Governments of Indonesia and Portugal and the Secretary-General of the United Nations Regarding the Modalities for the Popular Consultation of the East Timorese Through a Direct Ballot done in New York on May 5, 1999;

"approved" means approved by the Chief Electoral Officer by notice in writing addressed:

a. to the Electoral Commission; or

(b) prior to the establishment of the Electoral Commission, to the Special Representative;

"Chief Electoral Officer" means the person appointed as Chief Electoral Officer of UNAMET;

"Chief Electoral Officer's Record" means the record referred to in direction 14, subdirection (2), paragraph (b);

"consultation" means the consultation by direct ballot for which provision is made in the Agreement;

"counting centre" means a place at which counting of votes is to take place;

"Electoral Commission" means the Electoral Commission established in direction 2;

"international observer" means an observer (other than an official observer) referred to in paragraph (f) of Part E of the Agreement;

"IOM" means the International Organization for Migration;

"notification" means a notification made under these directions by the Chief Electoral Officer, in writing, addressed:

b. to the Electoral Commission; or

(b) prior to the establishment of the Electoral Commission, to the Special Representative;

"objection period" means the period determined under direction 16, subdirection (1);

"officer" includes the Chief Electoral Officer, a Regional Electoral Officer, a District Electoral Officer, a polling official, and any person (other than a member of the Electoral Commission) employed by the United Nations, the AEC or the IOM to perform functions in relation to the consultation assigned to them under the Agreement;

"official observer" means an observer from Indonesia or Portugal referred to in the first subparagraph of paragraph (f) of Part E of the Agreement;

"option" means one of the options specified in the question to be put to the voters in the consultation

pursuant to Part B of the Agreement;

"regional office" means:

- (a) in relation to a registration/polling centre within East Timor - the regional office of UNAMET designated by the Chief Electoral Officer as being the regional office for that registration/polling centre;
- (b) in relation to a registration/polling centre in Australia - the head office of the Australian Electoral Commission in the State or Territory of Australia in which the registration/polling centre is located; and
- (c) in relation to a registration/polling centre in any other place - an office designated by the Chief Electoral Officer as the regional office in relation to that registration/polling centre.

"registered voter" means a person registered as a voter under direction 14;

"register of voters" means the records forwarded to the Chief Electoral Officer under direction 15, subdirection (1);

"registration card" means the registration card issued to a voter pursuant to direction 14, subdirection (1);

"registration period" means the period determined as such under direction 7, subdirection (2);

"registration/polling centre" means a locality, designated by the Chief Electoral Officer by notification, at which voter registration and polling are to take place;

"registration/polling centre record" means the record referred to in direction 14, subdirection (2), paragraph (a);

"Special Representative" means the Special Representative of the Secretary-General for the East Timor Popular Consultation;

"Timorese person" means:

- (a) a person born in East Timor;
- (b) a person born outside East Timor but with at least one parent having been born in East Timor; or
- (c) a person who is the spouse of a person who is a Timorese person within the meaning of paragraphs (a) or (b);

"UNAMET" means the United Nations Mission in East Timor, established pursuant to Security Council resolution 1246 (1999) of 11 June 1999, and deployed for the purpose of giving effect to the Agreement; and

"voter registration number" means, in relation to a particular voter, the distinctive serial number borne by the registration card issued to the voter pursuant to direction 14, subdirection (1).

- (2) In these directions, any reference to the singular shall include the plural if the context so requires.
- (3) For the purposes of paragraph (c) of the definition of "Timorese person" in subdirection (1), a person shall be taken to be the spouse of another person if the first named person is deemed, in accordance with the law applicable in the place at which he or she makes an application for registration as a voter in accordance with these directions, to be the spouse of that other person.
- (4) For the purposes of these directions, a document shall be taken to be an "identity document" if it falls within a class of documents determined by the Chief Electoral Officer, by notification, to be identity documents.
- (5) A provision of these directions which requires a function to be performed by the Chief Electoral Officer, a Regional Electoral Officer or a District Electoral Officer shall be taken to have been complied with if the function is performed by a person functioning under the supervision and control of the Chief Electoral Officer, Regional Electoral Officer or District Electoral Officer (as the case may be).
- (6) A reference in these directions to the Regional Electoral Officer shall be read, in relation to staff of, or events at or relating to, a registration/polling centre, as a reference to:
- (a) the Regional Electoral Officer for the regional office for that registration/polling centre;
or
 - (b) where there are two or more Regional Electoral Officers for the regional office for that registration/polling centre, to either or any of those Regional Electoral Officers.
- (7) A reference in these directions to the District Electoral Officer shall be read, in relation to staff of, or events at or relating to, a registration/polling centre, as a reference to:
- (a) the District Electoral Officer for the registration/polling centre; or
 - (b) where there are two or more District Electoral Officers for the registration/polling centre, to either or any of those District Electoral Officers.

PART II - ADMINISTRATION

Direction 2 - Electoral Commission

- (1) There shall be an Electoral Commission established under these directions.
- (2) The Electoral Commission shall consist of three Commissioners appointed by the Secretary-General of the United Nations.
- (3) The Electoral Commission shall perform the functions and exercise the powers conferred on it by these directions.
- (4) In its performance of those functions and exercise of those powers, the Commission shall not be subject to the direction or control of any person or authority.
- (5) The Commissioners shall designate one of their number to be the presiding member.

- (6) Meetings of the Commission shall be convened, by notice in writing, by:
- (a) the presiding member; or
 - (b) the Chief Electoral Officer.
- (7) The Chief Electoral Officer shall convene a meeting of the Commission if requested to do so, in writing, by two Commissioners.
- (8) The Chief Electoral Officer shall be entitled to attend and address any meeting of the Commission.
- (9) Two Commissioners shall constitute a quorum for the transaction of business by the Commission.
- (10) Decisions of the Commission must be supported by the affirmative votes of two Commissioners.
- (11) The Commission may, if it so chooses, publish reasons for its decisions.
- (12) If a Commissioner dissents from a decision of the Commission, the reasons for his or her dissent may be published.
- (13) A Commissioner may resign his or her position by notice in writing addressed to the Secretary-General of the United Nations.

Direction 3 - Field staff

- (1) The Chief Electoral Officer shall designate, in writing;
 - (a) one or more Regional Electoral Officers for each regional office;
 - (b) one or more District Electoral Officers for each registration/polling centre; and
 - (c) such polling officials, counting officials and other staff as are required for implementing the Agreement.
- (2) Notwithstanding the provisions of subdirection (1):
 - (a) a District Electoral Officer, or a polling official for a registration/polling centre may, in a case of urgency, be designated by the Regional Electoral Officer; and
 - (b) a polling official for any registration/polling centre may, in a case of urgency, be designated by the District Electoral Officer for such registration/polling centre.
- (3) Where two or more Regional Electoral Officers operate as a team, the Chief Electoral Officer may designate one of them as the leader of the team, who shall, subject to the control of the Chief Electoral Officer, be responsible for the organisation and control of the work of the team.
- (4) Where two or more District Electoral Officers operate as a team, the Chief Electoral Officer, or the Regional Electoral Officer, may designate one of them as the leader of the team, who shall, subject to the control of the Regional Electoral Officer, be responsible for the organisation and control of the work

of the team.

(5) The Chief Electoral Officer may give instructions to any officer regarding the exercise of powers and the performance of functions under these directions, and such instructions shall be complied with.

Direction 4 - Conditions of appointment

(1) The designation of any person under direction 3 may be withdrawn, without prior notice to any person and without any person being entitled to a hearing, by any person or authority empowered to make a designation of the nature in question.

(2) Any designation made under direction 3 otherwise than in writing shall be confirmed in writing as soon as circumstances permit.

Direction 5 - Obligation of impartiality

(1) An officer shall perform his or her functions in a neutral and impartial manner and shall not, in the performance of his or her duties, seek or receive instructions from any government, party or any other authority apart from the United Nations.

(2) An officer shall refrain from any action which might reflect on his or her position as a neutral and impartial official responsible only to the United Nations.

(3) Nothing in this Direction shall be taken to prevent an officer of the AEC or of the IOM, as the case may be, from seeking instructions, in relation to functions assigned to the AEC or to the IOM under the Agreement, from another officer of the AEC or the IOM (as the case requires).

Direction 6 - Declaration of secrecy

Every officer shall make in an approved form, and before assuming his or her duties or performing any function or attending at any registration/polling centre or counting centre, a declaration of secrecy.

PART III - REGISTRATION OF VOTERS

Direction 7 - Registration of voters to take place

(1) A registration shall take place of persons who, by virtue of such registration and subject to these directions, will be entitled to vote at the consultation.

(2) The registration shall proceed for 20 consecutive days, and the first day of the registration period shall be determined by notification.

3. The hours during which registration shall take place shall be determined by the Chief Electoral Officer.

(4) The Regional Electoral Officer, after consulting with the Chief Electoral Officer, may, for a particular registration/polling centre, vary the hours determined by the Chief Electoral Officer under subdirection (3).

Direction 8 - Qualifications for registration

Every Timorese person who is aged 17 years or above at the time at which he or she applies for registration, or who will attain that age during the registration period, shall, on complying with the provisions of these directions, be entitled to be registered as a voter.

Direction 9 - Application for registration

(1) A person who is or claims to be qualified for registration, shall, if he or she so wishes, apply for registration by:

- (a) appearing in person before a District Electoral Officer;
- (b) identifying himself or herself, by means of an identity document, to the reasonable satisfaction of the District Electoral Officer;
- (c) proving, to the reasonable satisfaction of the District Electoral Officer, that he or she is aged 17 years or above, or will attain the age of 17 years during the registration period; and
- (d) proving, to the reasonable satisfaction of the District Electoral Officer, that he or she is a Timorese person.

(2) A District Electoral Officer may require any applicant to furnish such explanation, information or further particulars as may be necessary to establish the applicant's identity, age, or the fact that the applicant is a Timorese person, as the case requires.

(3) As far as is practicable, an applicant for registration as a voter shall apply for registration at the registration/polling centre which is closest, by the nearest practicable route, to his or her place of living.

Direction 10 - Refusal to register applicant

(1) A District Electoral Officer shall, after considering an application duly made under direction 9, refuse to register the applicant if the District Electoral Officer is not satisfied that the applicant is qualified for registration.

(2) If a District Electoral Officer refuses under subdirection (1) to register an applicant, he or she shall:

- (a) make a record of the refusal, the reason for it, and the date of the refusal, and sign the record; and
- (b) inform the applicant that he or she may, in accordance with the provisions of direction 11, appeal against the refusal.

Direction 11 - Appeal against refusal to register

1. Any person whose application for registration has been refused under direction 10 and who desires to appeal against such refusal, may, in the manner prescribed by subdirection (5), on the day and at the time and place determined pursuant to subdirections (2), (3) and (4), appeal against such refusal.
2. In relation to each registration/polling centre, the Regional Electoral Officer shall determine the date, time and place at which appeals may be made against decisions, made at that registration/polling centre, to refuse applications for registration.

(3) The Regional Electoral Officer shall advise the District Electoral Officer of each registration/polling centre, prior to the commencement of voter registration at that centre, of the date, time and place determined under subdirection (2).

(4) A Regional Electoral Officer may, notwithstanding the provisions of subdirection (2), in his or her discretion, allow in any particular case the person concerned to appear at a date, time and place other than that determined under subdirection (2).

(5) On a day, at a time and place determined in accordance with the provisions of this direction, the person who wishes to appeal (hereinafter called the appellant) shall:

- (a) appear in person before the Regional Electoral Officer;
- (b) make a fresh application, in the manner specified in direction 9, subdirection (1), to the Regional Electoral Officer;
- (c) state the grounds on which he or she appeals against the refusal of his or her original application; and
- (d) adduce such proof, provide such new information, and make such statements, as he or she may wish to present in support of his or her appeal.

(6) Subject to the provisions of subdirection (5), the hearing of the appeal may be conducted by the Regional Electoral Officer in such manner as in his or her opinion is best calculated to enable him or her to arrive at a valid opinion the matter.

(7) Without derogating from the generality of the provisions of subdirection (6), the Regional Electoral Officer may:

- (a) request any person to appear before him or her, and to give such oral evidence or produce such other proof as in the opinion of the Regional Electoral Officer may assist him or her in forming an opinion on the matter; and
- (b) postpone the hearing at any stage of the proceedings to a day to be determined by him or her.

(8) The Regional Electoral Officer shall keep a record of the proceedings.

(9) Subject to subdirection (10), the hearing of an appeal shall be open to the public.

(10) A Regional Electoral Officer may at his or her discretion exclude from the hearing or any part thereof any person (other than an official observer) whose presence is, in the opinion of the Regional Electoral Officer, not desirable.

Direction 12 - Recommendation on appeal

(1) The Regional Electoral Officer shall make a recommendation to the Electoral Commission on whether the Electoral Commission should allow or dismiss the appeal.

(2) The Regional Electoral Officer shall recommend dismissal of the appeal unless he or she is satisfied that the appellant is qualified for registration, in which case he or she shall recommend that the appeal be allowed.

(3) The Regional Electoral Officer may also recommend dismissal of an appeal if the appellant fails to appear before him or her at the time specified for the hearing.

(4) The Regional Electoral Officer shall make a record of his or her recommendation under subdirection (1), and forward it as soon as practicable to the Electoral Commission.

Direction 13 - Decision on appeal

(1) The Electoral Commission shall consider the recommendation made by the Regional Electoral Officer, and allow or dismiss the appeal.

(2) If the Electoral Commission allows the appeal, the appellant shall forthwith be referred for registration to a District Electoral Officer for the registration/polling centre at which the appellant was originally refused registration.

(3) The decision of the Electoral Commission under this direction shall be final.

Direction 14 - Registration of applicant

(1) If a District Electoral Officer does not under direction 10 refuse to register an applicant, or if the applicant is a person referred to the District Electoral Officer under direction 13, subdirection (2), the District Electoral Officer shall register the applicant by issuing to him or her a registration card in the approved form, being a card bearing a distinctive serial number on which is placed by the applicant the signature or prescribed mark of the applicant.

(2) The District Electoral Officer shall make in the approved form:

(a) a record of the registration card so issued, on which shall be placed by the applicant the signature or prescribed mark of the applicant; and

(b) a second record of the registration card so issued, on which shall be placed by the

applicant the signature or prescribed mark of the applicant.

(3) If the applicant is a person who has been referred to the District Electoral Officer under direction 13, subdirection (2), the District Electoral Officer shall comply with the provisions of subdirections (1) and (2) of this direction even if he or she is not the District Electoral Officer who first refused the applicant's application.

(4) In this direction, "prescribed mark", in relation to an applicant, means a mark made by the applicant, in relation to which the District Electoral Officer attests in writing that he or she has seen the applicant make the mark.

Direction 15 - Forwarding of documents and register of voters

(1) The Chief Electoral Officer's Record shall be forwarded to the Chief Electoral Officer in accordance with the Chief Electoral Officer's instructions.

(2) The registration/polling centre record shall be dealt with by the District Electoral Officer in accordance with the Chief Electoral Officer's instructions.

(3) Subject to subdirections (4) and (5), a record referred to in subdirection (1) or (2), and the information contained therein, shall not, without the permission of the Chief Electoral Officer, be revealed to any person or organisation.

(4) The Chief Electoral Officer shall compile, from the records referred to in subdirection (1), lists of registered voters, which shall be published in an approved form at times and places to be fixed by notification.

(5) Every registered voter shall appear in at least one list published under subdirection (4).

Direction 16 - Objection to retention of name on register of voters

(1) The period within which objections may be made to the retention of names on the register of voters shall be determined by notification.

(2) A registered voter (hereinafter called the objector) may, during the objection period, object to the registration of another voter (hereinafter called the "respondent") by lodging with the Regional Electoral Officer, in accordance with the provisions of subdirection (3), a notice in the approved form.

(3) The notice of objection shall state in full the grounds for the objection, including facts which, if true, would establish that the respondent was not at the time of his or her registration, and is not at the time of the objection, qualified for registration.

(4) A Regional Electoral Officer who receives a notice of objection shall:

(a) endorse on it the date and time of its receipt by him or her;

(b) if, in his or her view, the notice of objection does not meet the requirements of subdirection (3) - annotate the notice to that effect; and

(c) forward the notice, as soon as practicable, to the Electoral Commission.

Direction 17 - Decision on objections

(1) The Electoral Commission shall, as soon as practicable after it has received a notice of objection from a Regional Electoral Officer under direction 16, consider the objection and either uphold or reject it.

(2) The Electoral Commission may consider an objection in such manner as in its opinion is best calculated to enable it to arrive at a just decision on the matter.

(3) Without derogating from the generality of the provisions of subdirection (2), the Electoral Commission may invite any person to appear before it and require or allow such person to give such oral evidence or produce such other proof as in the opinion of the Electoral Commission may assist in the decision of the matter.

(4) The Electoral Commission shall keep a record of the proceedings under this direction.

Direction 18 - Cancellation of registrations

(1) If an objection has been allowed under direction 17, the registration of the respondent shall be cancelled and shall cease to be valid and he or she shall be disqualified from voting.

(2) The Chief Electoral Officer may cancel:

(a) the registration of a registered voter who has died and whose death has been brought to the attention of the Chief Electoral Officer;

(b) the registration of a registered voter who in his or her opinion has, or may have, registered fraudulently; and

(c) any registration which, in his or her opinion, is a duplicate of another registration.

(3) The Chief Electoral Officer shall, from time to time, publish lists, in the approved form, of cancelled registrations.

(4) The Chief Electoral Officer may from time to time publish revised lists of cancelled registrations.

Direction 19 - Suspension of registration

(1) The District Electoral Officer at a registration/polling centre may order a suspension of registration if the registration/polling centre is threatened by riot, violence, storm, flood, or any other occurrence which will make the proper conduct of registration impossible.

(2) The District Electoral Officer at a registration/polling centre shall order a suspension of registration if:

(a) the registration/polling centre is threatened by riot, violence, storm, flood, or any other occurrence which will make the proper conduct of registration impossible; and

(b) he is advised by a member of the United Nations Civilian Police, or the Regional Electoral Officer, to order a suspension of registration.

(3) The District Electoral Officer at a registration/polling centre at which registration has been suspended shall:

(a) make a record of the fact that registration has been suspended;

(b) as soon as is practicable, advise the Regional Electoral Officer of the suspension; and

(c) take such steps to effect the resumption of the registration as he or she thinks are reasonable in the circumstances.

Direction 20 - Certification of register

(1) After all appeals and objections have been dealt with by the Electoral Commission, it shall determine whether, in its opinion, the register of voters is of sufficient quality to form the basis for the conduct of a consultation which validly reflects the will of the people of East Timor.

(2) For the purposes of that determination, the Electoral Commission may give consideration to any matter relating to the registration of voters which in its opinion is relevant to the question.

PART IV - THE POLLING

Direction 21 - Places for polling

Polling shall take place at each registration/polling centre.

Direction 22 - Furnishing of electoral material and equipment

(1) The Chief Electoral Officer shall furnish ballot boxes, ballot papers, voting compartments, seals and other requisites and shall do such other acts and make such arrangements to facilitate the taking of the poll as may be deemed advisable for effectively conducting the consultation.

(2) The Chief Electoral Officer shall ensure that each registration/polling centre has a list of the persons who registered to vote there, and whose registrations have not subsequently been cancelled.

Direction 23 - The voting compartment

(1) The voting compartment in or at any registration/polling centre shall be arranged so as to permit a voter to mark his or her vote in secrecy, and shall be in a position where a person can neither enter nor leave it without being seen by the District Electoral Officer or a polling official designated by him or

her, and the District Electoral Officer or such polling official shall take care that no other person shall, except in accordance with the provisions of these directions, enter the voting compartment while a voter is in it for the purpose of recording his or her vote.

(2) For the purposes of these directions, the expression "voting compartment" shall include any place or surface in or at a registration/polling centre, that is set up, to the satisfaction of the District Electoral Officer, in such a manner that the voter may record his or her vote in secret.

Direction 24 - The ballot box

(1) Not more than one hour before the commencement of the poll at a registration/polling centre, the District Electoral Officer shall:

- (a) satisfy himself or herself that the ballot boxes to be used at the registration/polling centre are empty;
- (b) permit the inspection of the interiors of the empty ballot boxes by such persons as are entitled in terms of direction 26, subdirection (1) to attend at the registration/polling centre and as are present; and
- (c) immediately thereafter close and seal the ballot box in accordance with the instructions issued by the Chief Electoral Officer.

(2) If for any reason it becomes necessary at any time during the polling period to use any additional ballot box at any registration/polling centre, such additional ballot box shall be made available for inspection, closed and sealed *mutatis mutandis* in accordance with the provisions of subdirection (1), before being made available for the deposit of ballot papers.

(3) A ballot box closed and sealed as aforesaid may not be opened, and the seal shall not be broken, except under the circumstances contemplated in these directions.

(4) All sealed ballot boxes used in or at a registration/polling centre shall be placed in a position where they can be seen at all times during polling hours at that registration/polling centre by the District Electoral Officer or a polling official designated by him or her, and by any official observers or international observers present.

(5) The District Electoral Officer shall be responsible for the safe-keeping of all ballot boxes used at his or her registration/polling centre until they are delivered to the Regional Electoral Officer.

Direction 25 - Commencement and closing of the poll

(1) Subject to subdirection (2), the poll shall commence and shall close at times to be fixed by notification.

(2) The District Electoral Officer, before closing the poll at the registration/polling centre, at the time fixed under subdirection (1), shall permit every voter who at that hour is waiting in line at the registration/polling centre, to record his or her vote.

Direction 26 - Powers of District Electoral Officers

(1) The District Electoral Officer and other officers at a registration/polling centre shall regulate the number of voters to be admitted at a time, and shall exclude all other persons except officers, official observers, international observers, and other persons authorised by or on the authority of the Chief Electoral Officer.

(2) The District Electoral Officer:

(a) may order any person, excluding the persons referred to in subdirection (1) and any person recording his or her vote, to leave the registration/polling centre; and

(b) shall, where he or she makes an order under paragraph (a), make a written report to the Regional Electoral Officer.

(3) The District Electoral Officer may take any steps that he or she deems necessary for the protection of himself or herself and other officials or for stopping or preventing any violence or disturbance in or in the vicinity of the registration/polling centre.

(4) The powers conferred by this direction shall as far as possible not be exercised so as to prevent any voter who is entitled to vote, from having an opportunity to record his or her vote.

Direction 27 - Right to vote

(1) Every registered voter shall be entitled to vote at the consultation subject to and upon compliance with these directions.

(2) A voter may not vote more than once.

Direction 28 - Place of voting

A voter must vote at the registration/polling centre at which he or she registered.

Direction 29 - Voting to be by secret ballot

(1) The voting at the consultation shall be by secret ballot.

(2) The ballot paper shall be in an approved form.

Direction 30 - Manner of voting

(1) The voting at any registration/polling centre shall be conducted substantially and as nearly as possible in accordance with the provisions of this direction and directions 31, 32, 33 and 34.

(2) Subject to direction 33, no voter shall be entitled or permitted to vote, unless he or she produces:

(a) his or her registration card; and

(b) an identity document,

to the District Electoral Officer or a polling official.

(3) The District Electoral Officer or a polling official shall ascertain:

(a) by examining, and by putting relevant questions relating to the particulars appearing on, the registration card and identity document produced to him or her by the voter as contemplated in subdirection (2), that:

(i) the voter is the person whose name appears on the registration card; and

(ii) the registration card is a registration card officially issued under these directions; and

(b) in the manner prescribed in subdirections (5) and (7), and subject to subdirection (9), that the voter has not already voted at the consultation.

(4) If the voter's name is not shown on, or cannot be found on, the list of registered voters for the registration/polling centre, it shall be presumed that the registration card produced by the voter is not a registration card officially issued under these directions, and the voter shall not be permitted to vote.

(5) The District Electoral Officer or a polling official shall require the voter, and the voter when so required is obliged, to cause his or her fingers to be examined by the District Electoral Officer or such polling official, and if upon examination none of the fingers of the voter displays the identification mark, he or she shall, subject to subdirection (7), be presumed not to have already voted at the consultation.

(6) If upon such examination, any of the fingers of the voter displays the identification mark, the District Electoral Officer shall give to every official observer and international observer who is present an opportunity to observe such identification mark, and shall not permit the voter to vote.

(7) If the list of registered voters for the registration/polling centre has previously been marked by a polling official to indicate that the voter has voted, the District Electoral Officer shall give to every official observer and international observer who is present an opportunity to observe that mark, and shall not permit the voter to vote.

(8) If any person has in terms of subdirection (6) or (7) been prohibited from voting, the District Electoral Officer shall retain the registration card produced by him or her, and endorse it to the effect that such person was so prohibited.

(9) The provisions of subdirection (3), paragraph (b) and of subdirections (5) and (10) shall not apply in the case of a voter who suffers from a physical defect which, in the opinion of the District Electoral Officer, makes the application of the said provisions impossible.

(10) The matters referred to in subdirection (3) having been ascertained, the voter shall, in the presence and in accordance with the instructions of the District Electoral Officer or a polling official, place the identification mark on the fingers of his or her left hand or of his or her right hand or cause it to be

placed thereon by the District Electoral Officer or such polling officer.

(11) If a voter refuses to allow the identification mark to be applied to his or her fingers, he or she shall not be issued with a ballot paper and shall be ordered to leave the registration/polling centre.

(12) When the voter has complied with the provisions of subdirection (10), the District Electoral Officer or a polling officer shall:

(a) hand a ballot paper to the voter;

(b) take the voter's registration card; and

(c) mark the voter's name on the list of registered voters for the registration/polling centre, so as to indicate that the voter has voted.

(13) Subject to direction 32, when the voter has received the ballot paper, he or she shall:

(a) proceed alone to the voting compartment with his or her ballot paper;

(b) mark his or her vote in secret so as to indicate whether he or she wishes to accept the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia, or reject the proposed special autonomy for East Timor, leading to East Timor's separation from Indonesia;

(c) fold the ballot paper in such manner that his or her vote is not visible;

(d) display the ballot paper to the District Electoral Officer or a polling official designated by him or her; and

(e) drop the ballot paper into the ballot box placed in front of the District Electoral Officer or such polling officer.

(14) A registration card taken in accordance with subdirection (12), paragraph (b) shall be dealt with in accordance with the instructions of the Chief Electoral Officer.

(15) In this direction, "identification mark" means the mark approved for the purpose of the identification of a voter who has voted at the consultation.

Direction 31 - Voter who cannot read

(1) Any voter who is not able to read shall, in accordance with the instructions of the Chief Electoral Officer, be instructed by the District Electoral Officer or a polling official in the manner of voting.

(2) If the registration card produced by a voter to the District Electoral Officer or a polling officer does not bear a signature of the person to whom it was issued, the District Electoral Officer or such polling officer may ask the voter whether he or she desires to be instructed in the manner of voting, and if the voter replies in the affirmative, such voter shall for the purposes of subdirection (1) be deemed to be a voter who is not able to read.

Direction 32 - Voters with disabilities

(1) At the request in person of a voter who has a physical disability which would prevent him or her from voting without assistance, the District Electoral Officer may permit such voter to vote with the assistance of a polling official or, if the District Electoral Officer deems it appropriate, of any person chosen by the voter, and upon such permission being granted anything which by direction 30, subdirection (13) is required to be done by the voter, may be done with the assistance of such polling official or person.

(2) The secrecy of the voting shall as far as possible be preserved in the application of the provisions of this direction.

(3) A person other than an officer shall not provide assistance under subdirection (1) to more than one person.

Direction 33 - Voter who cannot produce registration card

(1) If:

a. a voter cannot produce his or her registration card because he or she claims that it has been lost or stolen;

(b) the voter produces an identity document; and

(c) the District Electoral Officer is able to ascertain, by reference to a registration/polling centre record, that the voter is a person to whom a voter registration card was validly issued,

direction 30 applies to the voter as if:

(d) he or she had complied with direction 30, subdirection (2), paragraph (a); and

(e) direction 30, subdirection (12), paragraph (b) were omitted.

Direction 34 - Spoiled ballot papers

If a voter spoils any ballot paper inadvertently, he or she may return it to the polling official concerned who, if satisfied of such inadvertence, shall:

(a) give the voter another ballot paper;

(b) retain the spoiled ballot paper which he or she shall immediately cancel and endorse with the word "spoiled"; and

(c) forthwith record on the counterfoil of the spoiled ballot paper the fact that it has been cancelled pursuant to paragraph (b).

Direction 35 - Suspension of polling

(1) The District Electoral Officer at a registration/polling centre may order a suspension of polling if the registration/polling centre is threatened by riot, violence, storm, flood, or any other occurrence which will make the proper conduct of polling impossible.

(2) The District Electoral Officer at a registration/polling centre shall order a suspension of polling if:

(a) the registration/polling centre is threatened by riot, violence, storm, flood, or any other occurrence which will make the proper conduct of polling impossible; and

(b) he or she is advised by a member of the United Nations Civilian Police, or the Regional Electoral Officer, to order a suspension of polling.

(3) The District Electoral Officer at a registration/polling centre at which polling has been suspended shall:

(a) make a record of the fact that polling has been suspended;

(b) as soon as is practicable, advise the Regional Electoral Officer of the suspension; and

(c) take such steps to effect the resumption of the polling as he or she thinks are reasonable in the circumstances.

Direction 36 - Sealing of ballot boxes and other material by District Electoral Officer

(1) Immediately after the closing of the poll, the District Electoral Officer shall close and seal with a distinctively numbered seal the aperture in any ballot box used at the registration/polling centre, in accordance with the instructions issued by the Chief Electoral Officer, and in the presence of such persons entitled in terms of direction 26, subdirection (1) to attend at the registration/polling centre, as are present.

(2) After the sealing of the ballot boxes under subdirection (1), the District Electoral Officer shall, in the presence of such official observers and international observers as may be in attendance, make up into packets, sealed with his or her own seal which shall bear a distinctive serial number:

(a) the unused or spoiled ballot papers and the counterfoils of used or spoiled ballot papers; and

(b) the registration cards in respect of which no ballot papers were issued and which were retained under direction 30.

(3) The District Electoral Officer shall deliver the ballot boxes and packets, in accordance with the Chief Electoral Officer's instructions, to the Regional Electoral Officer.

(4) The ballot boxes and packets shall be accompanied by a separate statement in an approved form in which the District Electoral Officer:

(a) accounts for the ballot papers entrusted to him or her; and

(b) records the total number of people who voted at the registration/polling centre over which he or she presided.

PART V - DETERMINATION OF THE RESULT OF THE BALLOT

Direction 37 - Verification of ballot paper account by electoral officer

(1) After receiving the ballot boxes and packets referred to in direction 36, subdirection (3), the Regional Electoral Officer shall examine whether the seals of ballot boxes and packets are in order and give any official observers and international observers who are present an opportunity to do the same, and shall thereafter open all the ballot boxes and packets.

(2) The Regional Electoral Officer shall separately verify each District Electoral Officer's ballot paper account referred to in direction 36, subdirection (4) by comparing it with the contents of the packets received from each registration/polling centre concerned, and shall for that purpose open all the ballot boxes from each registration/polling centre and cause the ballot papers contained in them to be counted, in such a manner that the votes marked on the ballot papers are not ascertained.

(3) If the Regional Electoral Officer detects any discrepancy in the verification of the ballot paper account referred to in subdirection (2), the Chief Electoral Officer shall be informed in writing accordingly.

Direction 38 - Counting of votes

(1) After the provisions of direction 37 have been complied with, the Regional Electoral Officer shall:

(a) without looking at any votes marked on any ballot papers, mix the contents of the ballot boxes in such a way that the ballot papers from every ballot box have been mixed with ballot papers from another ballot box from a different registration/polling centre;

(b) sort the ballot papers, with regard to the provisions of subdirections (4) and (5), on the basis of the votes recorded on them; and

(c) count the votes recorded in respect of each option.

(2) Subdirection (1), paragraph (a) does not apply to a regional office to which only one registration/counting centre is required to deliver ballot boxes pursuant to direction 36.

(3) When all the votes contained in all the ballot boxes sent to the Regional Electoral Officer have been counted pursuant to subdirection (1), the Regional Electoral Officer shall, as soon as practicable and in accordance with the instructions of the Chief Electoral Officer, inform the Chief Electoral Officer of the number of votes so determined to have been recorded for each option.

(4) The Regional Electoral Officer shall reject and not count any ballot paper:

(a) which records votes for both options;

(b) in respect of which he or she has reasonable grounds to believe that it has not been officially issued to a voter;

(c) which is unmarked or on which it is impossible to determine with certainty for which option the vote is cast; or

(d) which contains a mark or statement made by the voter which tends to identify the voter.

(5) Subject to subdirection (4), paragraphs (b) and (d), the Regional Electoral Officer shall not reject but shall count any ballot paper on which there is a mark or writing, by means of which a voter has clearly indicated his or her choice.

(6) The Regional Electoral Officer shall endorse the word "rejected" on any ballot paper finally rejected in terms of these directions.

(7) When the Regional Electoral Officer has complied with the provisions of this direction, he or she shall as soon as practicable enclose in separate packets:

(a) all counted ballot papers;

(b) all rejected ballot papers; and

(c) the unused or spoiled ballot papers and the counterfoils of used or spoiled ballot papers,

and shall seal such packets and deal with them in accordance with the instructions of the Chief Electoral Officer.

Direction 39 - Presentation of the result of the ballot

(1) After he or she has received advice from all Regional Electoral Officers under direction 38, subdirection (3), the Chief Electoral Officer shall present the result of the ballot to the Electoral Commission.

(2) The Chief Electoral Officer may at his or her discretion release information derived from advices received by him or her under direction 38, subdirection (3) before such advices have been received from all Regional Electoral Officers.

Direction 40 - Recounting

(1) At any time prior to the presentation of the result of the ballot under direction 39, subdirection (1), the Chief Electoral Officer may, at his or her discretion, direct a recount of the ballot papers in any category determined by him or her.

(2) The discretion of the Chief Electoral Officer to direct a recount may be exercised at his or her own initiative, or pursuant to a request by an official observer.

(3) The Chief Electoral Officer shall direct a recount of the ballot papers in any category determined by the Electoral Commission, if instructed to do so by the Electoral Commission.

Direction 41 - Announcement of the result of the ballot

(1) As soon as possible after the provisions of direction 39 have been complied with, the Chief Electoral Officer shall announce the result of the ballot by making known the total number of votes cast in favour of each option, and the total number of votes rejected pursuant to direction 38, subdirection (4).

(2) The Chief Electoral Officer shall cause a notice of the particulars contained in the announcement to be published.

Direction 42 - Certification of the consultation process

(1) After the Chief Electoral Officer has complied with direction 39, subdirection (1), the Electoral Commission shall determine whether, in its opinion, the consultation has been able to provide an accurate reflection of the will of the people of East Timor.

(2) Without limiting the generality of subdirection (1), in making that determination, the Electoral Commission shall give consideration to:

(a) any irregularities which have occurred in relation to any aspect of the consultation process; and

(b) any electoral malpractices,

which in its opinion could, in their totality, have altered the result of the consultation.

(3) In subdirection (2), "electoral malpractice" means any action stated by Part VI of these directions to be an electoral malpractice.

PART VI - ELECTORAL MALPRACTICE**Direction 43 - Electoral malpractices relating to voter registration**

(1) It shall constitute an electoral malpractice if a person, either himself or herself, or through an intermediary, whether directly or indirectly:

(a) uses or threatens to use violence against any person or his or her family, or the property of any person or his or her family; or

(b) does or omits to do, or threatens to do or omit to do, anything, whether lawful or unlawful, to the loss, detriment, disadvantage or prejudice of any person or his or her family,

with the intent or the effect of:

(c) dissuading, discouraging or preventing any other person from seeking to register as a voter, whether or not such person is qualified to register; or

(d) obtaining the possession or causing the loss or destruction of the registration card of any person.

(2) It shall constitute an electoral malpractice if a person:

(a) during the hours specified for the registration of voters, within 100 metres of any registration point, seeks to canvass, erect any poster or structure or use any form of loudspeaker, other than for purposes related to the administration of the consultation, or organises or participates in any procession or demonstration;

(b) with the intent to defraud, duplicates, copies, forges, falsifies or fabricates a registration card or any document purporting to be a registration card, or utters or is in possession of any documents so duplicated, copied, forged, falsified or fabricated;

(c) not being an officer acting within the course of his or her duties under or for the purposes of these directions, purports to issue a registration card, or destroys, mutilates or defaces any registration card, or places any writing or mark on any registration card, except as authorised in accordance with these directions;

(d) is found in possession of a registration card not issued to him or her, without being able to give a satisfactory explanation for his or her possession of it, or is found in possession of more than one registration card issued to him or her;

(e) being a registered voter who has been issued with a valid registration card, reapplies for registration;

(f) being person who has been disqualified from voting or from registration in terms of direction 18, subdirection (1), reapplies for registration as a voter;

(g) knowingly induces or procures any other person, who is not qualified for registration or is disqualified from voting, to apply for registration, or to register, as a voter;

(h) obstructs, hinders or interferes with any officer in the performance of his or her duties or functions or the exercise of his or her powers under these directions;

(i) without being authorised to do so, removes any document from any place where it is kept in terms of any provision of these directions, or destroys, mutilates, defaces, or places any writing or mark upon, or otherwise interferes with, any document so kept in such place or any document, form, paper, instrument or other thing used for or required in connection with the carrying out of any such provision; or

(j) for the purpose of making any application to a District Electoral Officer, or in any proceedings before an officer or the Electoral Commission, makes a false statement knowing it to be false or not believing it to be true.

Direction 44 - Infringement of secrecy

It shall constitute an electoral malpractice if a person:

(a) communicates to any person any information likely to defeat the secrecy of the voting;

- (b) except as determined by these directions, interferes with or attempts to interfere with a voter when marking his or her vote, or otherwise attempts to obtain at a registration/polling centre information as to the option for which any voter at that registration/polling centre is about to vote or has voted, or communicates at any time to any person any information obtained at a registration/polling centre as to the option for which any voter at such registration/polling centre is about to vote or has voted;
- (c) directly or indirectly, induces any voter to display his or her ballot paper, after he or she has marked it, in such a manner as to make known to any person the option for which the voter has marked his or her vote;
- (d) attempts to ascertain at the determination of the result of the consultation, or to communicate, any information obtained as to the manner in which any particular person marked his or her ballot paper;
- (e) communicates to any other person any information obtained about the option in respect of which a vote has been recorded in any spoiled ballot paper;
- (f) except under the provisions of direction 32, attempts to ascertain, or directly or indirectly assist in ascertaining, for which option any voter has recorded his or her vote;
- (g) who, in the carrying out of his or her duties under these directions, has obtained any knowledge as to the option for which any person has recorded his or her vote, discloses such knowledge; or
- (h) except with due authority, breaks the seal of a sealed packet or opens such a packet.

Direction 45 - Disturbance of proceedings and obstruction of officers

It shall constitute an electoral malpractice if a person:

- (a) wilfully obstructs or disturbs any proceedings under these directions, or obstructs or interferes with an officer in the exercise of his or her powers or the performance of his or her duties and functions under these directions;
- (b) on polling day, does any canvassing for votes or erects any poster or structure, other than for official purposes, nearer than 100 metres from the registration/polling centre; or
- (c) on polling day, uses any form of loudspeaker, other than for official purposes, or organises any procession of or demonstration by persons, or participates therein.

Direction 46 - Undue influence

It shall constitute an electoral malpractice if a person, directly or indirectly, by himself or herself or by any other person:

- (a) for the purpose of inducing or compelling any person to vote or to refrain from voting at the consultation, or on account of any person's having voted or refrained from voting at the consultation:

(i) makes use or threatens to make use of any violence, force or restraint, or inflicts or threatens to inflict any bodily or psychological injury, damage, hazard or loss, upon or against any person or his or her family; or

(ii) does or threatens to do anything to the disadvantage of any person or his or her family; or

(b) by any such means as aforesaid or any fraudulent device or contrivance:

(i) induces, compels or prevails upon any voter to vote or refrain from voting at the consultation or to vote in favour of a particular option; or

(ii) impedes, hinders or prevents the free exercise of the franchise by any voter at the consultation.

Direction 47 - Bribery

(1) It shall constitute an electoral malpractice if a person asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any property or benefit of any kind, whether for himself or herself or for any other person, on an understanding that that property or benefit will influence or affect, in any manner, the following:

(a) any vote of the first-mentioned person;

(b) any support of, or opposition to, an option by the first-mentioned person; or

(c) the doing of any act or thing by the first-mentioned person the purpose of which is, or the effect of which is likely to be, to influence the vote of a registered voter.

(2) It shall constitute an electoral malpractice if a person gives or confers, or promises or offers to give or confer, any property or benefit of any kind to another person, in order to influence or affect:

(a) any vote of that person or any other person;

(b) any support of, or opposition to, an option by that person or any other person; or

(c) the doing of any act or thing by that person or any other person, the purpose of which is, or the effect of which is likely to be, to influence the vote of a registered voter.

(3) Legitimate declarations of public policy or promises of public action do not constitute an electoral malpractice under subdirections (1) or (2).

Direction 48 - Impersonation etc.

It shall constitute an electoral malpractice if a person:

(a) applies for a ballot paper in the name of some other person whether living, dead or fictitious or records a vote in the name of any such person;

- (b) having voted once in the consultation, applies again for a ballot paper; or
- (c) makes or submits any statement under these directions containing any information or allegation which he or she knows to be false.

Direction 49 - Electoral malpractices relating to voting procedures etc.

It shall constitute an electoral malpractice if a person:

- (a) for the purpose of having a ballot paper issued to him or her, knowingly produces to any officer a registration card or other document issued to or in the name of some other person, whether living, dead or fictitious, or a registration card or other document which has been altered with intent to deceive, or any document purporting to be but not being a registration card or other document;
- (b) having previously voted at the consultation:
 - (i) votes again; or
 - (ii) produces to any officer for the purpose of having a ballot paper issued to him or her, a registration card or other document, whether issued to him or her or in the name of some other person, whether living, dead or fictitious, or any document purporting to be but not being a registration card or other document;
- (c) forges or counterfeits or fraudulently destroys any ballot paper or any official mark on any ballot paper;
- (d) without due authority, supplies any ballot paper to any person;
- (e) except as authorised by these directions, places any thing in any ballot box;
- (f) fraudulently takes out of any registration/polling centre any ballot paper;
- (g) without proper authority, destroys, takes, opens, uses or otherwise interferes with any ballot box, voting compartment, instrument, form, document or other equipment used or intended for use at any registration/polling centre;
- (h) causes a disturbance at any registration/polling centre, or disobeys any proper order given by an officer at any registration/polling centre; or
- (i) without proper authority, destroys, mutilates, defaces or removes any notice exhibited under these directions.

PART VII - MISCELLANEOUS

Direction 50 - Unforeseen circumstances etc.

Where, in the opinion of the Chief Electoral Officer, by reason of any mistake, miscalculation,

emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under these directions, he or she may make such appointments or give such directions as he or she deems proper and appropriate, and anything done in compliance with any such direction shall be final.

Direction 51 - Preservation of materials

(1) All materials referred to in these directions and provided by the United Nations to any person for the purposes of the consultation shall remain, until otherwise determined, the property of the United Nations.

(2) At the conclusion of the consultation, all documents and materials in the custody of an officer which were used for purposes related to the consultation shall be stored in accordance with the instructions of the Chief Electoral Officer until such time as their destruction or disposition is authorised by him or her.

Direction 52 - Amendment of these directions

(1) These directions may be amended from time to time:

(a) by the Special Representative; or

b. by the Chief Electoral Officer, by notification.

(2) Where, at a time after the establishment of the Electoral Commission, the Chief Electoral Officer amends these directions under subdirection (1), paragraph (b), he or she shall at the earliest opportunity send a copy of the notification to the Special Representative.