



VIII CONSTITUTIONAL GOVERNMENT

Law Proposal No. / [date]

Approving the

Industrial Property Code

The Constitution of the Democratic Republic of Timor-Leste refers to Intellectual Property rights in its article 60, within the scope of Title III on Economic, Social and Cultural Rights and Duties. It recognizes therein the need to protect the creation, production and trade of literary, scientific and artistic works. As is well known, intellectual property rights guarantee inventors or producers of intellectual works protection and reward for their creation and comprise copyright and industrial property rights.

In turn, Article 1223 (1) of the Civil Code establishes that copyright and industrial property rights are subject to special legislation. Both the Decree-Law No. 14/2018, of 17 August, on the VIII Constitutional Government Organic Law (as amended by Decree-Laws No. 20/2020, of 28 May, and 27/2020, of 19 June) and Decree-Law No. 12/2019, of 14 June, approving the Organic Law of the Ministry of Tourism, Commerce and Industry (as amended by Decree-Law No. 66/2020, of 22 December), assign the General Directorate of Industry within the Ministry of Tourism, Commerce and Industry the responsibility to organize and administer a register of industrial property.

However, detailed legislation providing for clear and complete protection of intellectual property has not been enacted in Timor-Leste.

Intellectual property today is of enormous relevance to economic growth, job creation and the development of innovations. Intellectual property increasingly enhances the value of companies, both of technological and commercial nature, enabling return on investments made in innovation and creating competitive advantages that allow such companies to respond with more efficiency and security to the challenges imposed by the globalization of markets. However, successful commercialization of intellectual property-centered goods and activities requires modern intellectual property laws. Such laws also protect consumers from illicit and potentially dangerous goods such as counterfeit medicines and pirated software.

In addition, competitive participation in the increasingly integrated global economy requires an approach to intellectual property protection that is harmonized with international standards and practices. Formal adoption of such standards and practices is also required as

a part of the forthcoming accession by Timor-Leste to the World Trade Organization (WTO) which requires acceding countries to comply with the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) as well as certain provisions in international conventions regulated by the World Intellectual Property Organization (WIPO). Adoption of common standards of intellectual property protection, combined with reliable enforcement, will enhance the competitive position of Timorese businesses and innovative industries. Proper intellectual property laws also play an important role in the facilitation of technology transfer because they assure international developers of important technologies that their property will be safeguarded from misappropriation and illicit use.

Therefore, the Government has proposed to the National Parliament the establishment of a modern legal regime for the protection of intellectual property that will be consistent with internationally recognized best practices ascribed to by Timor-Leste's principal trading partners. While separate legislation will govern the creative fields of copyrights and related rights, this Code regulates the subset of intellectual property known as "industrial property," namely, the fields of trademarks, geographical indications, industrial designs, patents, semiconductor product topographies and trade secrets.

Accordingly,

The National Parliament decrees, pursuant to paragraph 1 and subparagraph e) of paragraph 2, all of Article 95 of the Constitution of the Republic, to be valid as law, the following:

Article 1

Approval of the Industrial Property Code

The Industrial Property Code, which is published as an Annex to this legislation and is an integral part therewith, is hereby approved.

Article 2

Implementing Regulations

Matters relating to applications, notifications and publication are to be regulated by the Government, within **180 days** of the entry into force of the Industrial Property Code, enabling, *inter alia*, the introduction and use of information technologies as universal medium to consult databases, deposit requests, process monitoring and rights management.

Article 3

Repealing provision

Any and all provisions contained in preceding legislation that are contrary to those adopted in the Industrial Property Code are hereby revoked.

Article 4

Entry into force

This Law and the Industrial Property Code shall enter into force on the ninetieth day after its publication.

Approved in [date]

The President of the National Parliament

Aniceto Longuinhos Guterres Lopes

Promulgated in

To be published

The President of the Republic

Dr. Francisco Guterres Lú Olo

ANNEX
INDUSTRIAL PROPERTY CODE

CHAPTER I
GENERAL PROVISIONS

Article 1
Definitions

For the purposes of this Code:

- a) 'applicant' shall mean the natural or legal person who has applied for protection in accordance with Chapters II, IV or V of this Code;
- b) 'Competent Authority' shall mean the public authority duly designated by the Government to exercise the applicable powers and competences prescribed under this Code;
- c) 'Competent Court' shall mean the District Court of Dili, in first instance;
- d) 'Competent Minister' shall mean the duly appointed Government Minister responsible for the development and effective implementation of industrial property policy in Timor-Leste;
- e) 'Code' shall mean the Industrial Property Code as established in this law;
- f) 'Industrial Property Gazette' shall mean the official publication, maintained by the Competent Authority, containing notices, declarations and other public information the publishing of which is required under this Code.
- g) 'international exhibition' shall mean an official, or officially recognized, international exhibition falling within the terms of the Convention on International Exhibitions, signed on 22 November 1928, as last amended;
- h) 'owner' shall mean the natural or legal person who is duly entitled as the legal proprietor of a registered right under Chapters II, IV or V of this Code.
- i) 'Paris Convention' shall mean the Paris Convention for the Protection of Industrial Property of March 20, 1883, as last amended;
- j) 'priority date' shall mean the date on which the time period pertaining to the right of priority, as prescribed by the Paris Convention, commences;
- k) 'Registry' shall mean the Industrial Property Registry maintained by the Competent Authority in accordance with this Code;

l) 'WTO' shall mean the World Trade Organization.

Article 2

Purpose of the legislation

This Code establishes the industrial property regime of Timor-Leste, along with the principles and rules to which it is subject.

Article 3

Scope of industrial property

The industrial property system shall cover industry, trade and services as well as natural or manufactured products or processes. The scope of an industrial property right, including any limitations thereof, shall be defined in accordance with this Code.

Article 4

Personal scope of application

- 4.1 This Code shall be applicable to all Timorese individuals and legal entities, nationals of Member States of international intellectual property agreements to which Timor-Leste has acceded, as well as nationals of Member States of international intellectual property agreements to which Timor-Leste is not a party, but which apply to Timor-Leste by virtue of any agreement to which it has acceded, irrespective of official domicile, save for special provisions on competence and proceedings.
- 4.2 The Code shall also apply to legal entities having real and effective industrial or commercial establishments in Timor-Leste or in the territory of such a Member State.
- 4.3 Nationals of Member States of international organizations of which Timor-Leste is a member and nationals of any other States who have a domicile or establishment, in fact and not as a matter of form, in the territory of one of the Member States of these international organizations shall be treated in the same manner for the purposes of this legislation as Timorese nationals.
- 4.4 The system of reciprocity shall apply to natural and legal persons not covered by the preceding paragraphs, notwithstanding any existing agreements between Timor-Leste and the person's country.

Article 5

Function of industrial property

- 5.1 The protection and enforcement of industrial property rights should contribute to the promotion of innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.

- 5.2 The exercise of industrial property rights may be subject to measures necessary to protect public health and nutrition, to promote the public interest in sectors of vital importance to socio-economic and technological development in Timor-Leste, or to prevent practices which unreasonably restrain trade, provided that such measures are consistent with the provisions of this Code.

Article 6

Guarantee of industrial property rights

Industrial property shall enjoy the guarantees established under the law on property in general and under international conventions to which Timor-Leste is a party.

Article 7

Effects

- 7.1 Industrial property rights shall be valid throughout the whole national territory of Timor-Leste.
- 7.2 The grant or registration of industrial property rights shall imply only a rebuttable legal presumption of the satisfaction of the requirements of the grant or registration, as applicable.

Article 8

Industrial Property Registry

- 8.1 The Competent Authority shall establish and maintain the Industrial Property Registry in accordance with the requirements of this Code.
- 8.2 The Registry shall in particular contain records pertaining to applications made and rights granted or registered under Chapters II, III, IV and V, as well as other information the recording of which is so prescribed by this Code.

Article 9

Proof of rights

- 9.1 The ownership of a title granted or registered under Chapters II, IV and V of this Code may be proven by reference to the ownership information indicated on the Registry.
- 9.2 Ownership may also be proved by reference to the applicable industrial property certificate issued by the Competent Authority as pertains to a granted or registered right.
- 9.3 Upon request by an applicant, the Competent Authority may also issue an application certificate, concerning the applicant's claim in relation to a corresponding application. Nonetheless, the information contained in the Registry shall serve the same purpose.

Article 10 Regulations

- 10.1 For the purpose of ensuring the effective implementation of this Code, where so required, the Competent Minister shall issue administrative regulations, in the form of an ordinance.
- 10.2 Official fees stipulated in this Code shall be established and amended in accordance with the preceding paragraph.
- 10.3 All ordinances issued under this Code shall be published in the Official Journal of the Democratic Republic of Timor-Leste.

CHAPTER II TRADEMARKS

Section I Scope of Subject Matter

Article 11 Definitions

For the purposes of this Chapter:

“Trademark” shall mean any visually perceptible sign that is capable of distinguishing goods or services of one undertaking from those of other undertakings; in particular, such signs may consist of words including personal names, letters, numerals, figurative elements and combinations of colors as well as any combination of such signs;

“Collective mark” shall mean any trademark that belongs to a collective organization such as a cooperative, an association or a federation of industries, producers or traders and that distinguishes the goods or services of the members of the collective organization from the goods or services of other undertakings;

“Certification mark” shall mean any trademark that distinguishes goods or services that are certified by the owner of the certification mark in relation to origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, from other goods or services not so certified;

“Nice Classification” shall mean the classification according to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of June 15, 1957, as last revised.

Article 12
Absolute Grounds for Refusing the Registration of a Trademark

12.1 A sign shall not be validly registered as a trademark if:

- (a) it is devoid of any distinctive character;
- (b) it consists exclusively of signs or indications which may serve, in the course of trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production or supply of goods, time of rendering of services, or other characteristics of goods or services;
- (c) it consists exclusively of signs or indications that have become customary in current language or in the bona fide and established practices of the trade in Timor-Leste.
- (d) it is contrary to public order or morality in Timor-Leste;
- (e) it is of such a nature as to deceive or mislead the public;
- (f) it consists of, or contains, a reproduction or imitation from a heraldic point of view, of a State flag, or of any other sign communicated under Article 6ter of the Paris Convention, provided that the latter sign has not been objected by Timor-Leste in accordance with Article 6ter(4) of the Paris Convention and that its registration has not been authorized by the Competent Authority of the State or of the international intergovernmental organization concerned.

12.2 A sign shall not be refused registration as a trademark by virtue of paragraphs 12.1(a), (b) or (c) if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.

Article 13
Relative Grounds for Refusing the Registration of a Trademark

13.1 A sign cannot be validly registered as a trademark if:

- (a) it is identical with or similar to an earlier trademark, which has been the subject of an application validly filed or registered in Timor-Leste in the name of a different person, where the goods or services in respect of which the registration of the sign has been applied for are identical with or similar to the goods or services of the earlier trademark, and there exists a likelihood of confusion on the part of the public because of the sign's identity with, or similarity to, the earlier trademark and the identity or similarity of the goods and services;

Where an identical sign is used for identical goods or services, a likelihood of confusion shall be presumed.

- (b) it is identical with or similar to, or it constitutes a translation of, a trademark that is

well-known in Timor-Leste, where the goods or services in respect of which the registration of the sign is applied for are identical with or similar to the goods or services for which the well-known trademark is applied, and there exists a likelihood of confusion on the part of the public because of the sign's identity with, or similarity to, the well-known trademark and the identity or similarity of the goods and services.

- (c) it is identical with or similar to a registered trademark that is well-known in Timor-Leste, irrespective of whether the goods or services in respect of which the registration of the sign is applied for are dissimilar to the goods or services for which the well-known trademark is registered, where the use of the sign would indicate a connection between the goods or services for which it is used and the owner of the registered well-known trademark; and the interests of the owner of the registered well-known trademark are likely to be damaged by such use.
- (d) it contains or consists of a geographical indication protected in Timor-Leste, where the goods in respect of which the registration of the sign in Timor-Leste has been applied for are not originating in the territory indicated in the geographical indication.
- (e) it contains or consists of any earlier intellectual property right of another person, other than those mentioned in paragraphs 13.1(a) to (d), in particular such right resulting from the law of copyright or industrial designs.
- (f) the application for registration has been made by the agent or representative of the owner of the trademark in his/her own name, without the authorization of the owner of the trademark, unless the agent or representative justifies his/her action.

Section II Registration

Article 14 Acquisition of the Exclusive Right to a Trademark

The exclusive right to a trademark shall be acquired through registration in accordance with the provisions of this Code.

Article 15 Application for Registration

- 15.1 An application for the registration of a trademark shall be filed with the Competent Authority.
- 15.2 The application shall contain the following elements:

- (a) a request for registration of a trademark;
- (b) the name and address of the applicant, as prescribed in the Regulations;
- (c) a reproduction of the trademark, as prescribed in the Regulations;
- (d) the list of goods and/or services for which the registration of the trademark is requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the Nice Classification;
- (e) where the applicant has a representative, the name and address of that representative, as prescribed in the Regulations;
- (f) where applicable, an indication of the type of trademark as well as any specific requirements applicable to that type of trademark, as prescribed in the Regulations;
- (g) any further indication or element prescribed in the Regulations.

15.3 The application for registration shall be subject to the payment of the prescribed fees.

Article 16 **Filing Date**

16.1 The filing date of an application for the registration of a trademark shall be the date on which it is received by the Competent Authority, provided that, at the time of receipt it contains at least the following elements:

- (a) an express or implicit indication that the registration of a trademark is sought;
- (b) indications allowing the identity of the applicant to be established;
- (c) indications allowing the applicant or its representative, if any, to be contacted;
- (d) a sufficiently clear representation of the trademark the registration of which is sought; and
- (e) the list of goods and/or services for which the registration is requested.

16.2 No filing date shall be accorded until the filing fees prescribed in the Regulations have been paid.

Article 17 **Right of Priority**

- 17.1 An application for registration may contain a declaration claiming, in accordance with the Paris Convention, the priority of one or more earlier applications duly filed for the same trademark by the applicant or his predecessor in title in or for any State party to the said Convention or any Member of the World Trade Organization. The period of priority shall be of six months from the filing date of the earlier application and shall be computed in accordance with the provisions of Article 4 of the Paris Convention.
- 17.2 The declaration claiming priority of the earlier application shall indicate
- (a) the date of filing of the earlier application;
 - (b) the number of the earlier application as far as known by the applicant at the time of applying for the registration of the same trademark in Timor-Leste;
 - (c) the country or the regional trademark office in which the earlier application was filed.
- 17.3 Where the application contains a declaration claiming priority, the applicant shall, within three months of filing the application, furnish the documentation in support of the priority claim, as prescribed in the Regulations.
- 17.4 The effect of the claiming of priority shall be that an application filed within the priority period shall not be refused or invalidated by reason of any acts accomplished during that period, in particular, another filing or the use of the trademark, and such acts shall not give rise to any third party right or any right of personal possession.
- 17.5 If the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.

Article 18

Exhibition Priority

- 18.1 An applicant who has displayed goods or services under the trademark applied for at an official or officially recognized international exhibition may claim a right of exhibition priority during a period of six months from the date of the first display of the goods or services under the trademark applied for.
- 18.2 In order to claim the right of exhibition priority under Subarticle 18.1, an applicant must declare in the application for the registration of a trademark that he/she wishes to take advantage of the protection arising from the display of goods or services under the trademark applied for.
- 18.3 Where the application contains a declaration under Subarticle 18.2, the applicant shall, within three months of the filing of the application, furnish evidence of the display of goods or services under the trademark applied for.

- 18.4 Claiming exhibition priority shall have the effect that the date of the first display of the goods or services under the trademark applied for shall count as the filing date of the application for registration of the trademark.
- 18.5 An exhibition priority granted does not extend the period of priority laid down in Subarticle 17.1.

Article 19

Division of the Application

- 19.1 The applicant may divide his/her application for registration in order to separate into two or more applications the goods or services specified in the initial application:
- (a) until the decision by the Competent Authority on the registration of the trademark; and
 - (b) during any appeal proceedings against the decision on the registration of the trademark.
- 19.2 Each divisional application shall retain the filing date of the initial application and the benefit of the claim of priority, if applicable. After the division, each divisional application shall be independent.

Article 20

Amendment and Correction of the Application

A request for amendment or correction of the application may be filed by the applicant at any time during the registration procedure. An amendment or correction shall not be accepted if it involves a change in the trademark or an enlargement of the list of goods or services specified in the application, but said list may be reduced or limited.

Article 21

Withdrawal of the Application

The applicant may, at any time before the registration of the trademark, withdraw his/her application for registration, entirely or in respect of one or more goods and/or services.

Article 22

Examination of the Application as to Form

- 22.1 The Competent Authority shall examine whether:
- (a) the application complies with the requirements for according a filing date pursuant to Article 16;

- (b) the application complies with the requirements provided for in Subarticles 15.2 and 3;
 - (c) where an application contains a declaration claiming priority pursuant to Article 17, the requirements provided for in Subarticles 17.2 and 3 have been complied with; and
 - (d) where an application contains a declaration claiming exhibition priority pursuant to Article 18, the requirements provided for in Subarticles 18.2 and 3 have been complied with.
- 22.2 If the examination reveals that the application does not comply with all the requirements referred to in Subarticle 22.1, the Competent Authority shall invite the applicant to remedy the irregularity within the time limit prescribed in the Regulations.
- 22.3 (a) If the irregularities with regard to the requirements referred to in paragraph 22.1(a) are not remedied within the prescribed time limit, the application shall be regarded as not filed and the Competent Authority shall not proceed with the application.
- (b) If the irregularities with regard to the requirements referred to in paragraph 22.1(a) are remedied within the prescribed time limit, the Competent Authority shall accord as the filing date, the date on which all the irregularities are remedied.
- 22.4 If the irregularities with regard to the requirements referred to in paragraph 22.1(b) are not remedied within the prescribed time limit, the application shall be regarded as abandoned and the applicant shall be informed accordingly.
- 22.5 If the irregularities with regard to the requirements referred to in paragraphs 22.1(c) or (d) are not remedied within the prescribed time limit, the declaration claiming priority or exhibition priority shall be considered not to have been made.

Article 23

Examination of the Application as to Grounds for Refusal

- 23.1 The Competent Authority shall examine and determine whether the trademark complies with the definition in Article 11 and is registrable under Article 12.
- 23.2 (a) Where the Competent Authority finds that the registration of the trademark is precluded on any of the grounds referred to in Subarticle 23.1, it shall notify the applicant accordingly, stating the reasons why the trademark cannot be registered. The notification shall invite the applicant to amend the application or to communicate observations on the grounds for refusal, within the time limit prescribed in the Regulations.

(b) If the applicant does not amend the application or does not communicate any observations within the prescribed time limit, the Competent Authority shall refuse the registration.

(c) If the applicant amends the application or communicates observations within the prescribed time limit but the Competent Authority continues to consider that the trademark is precluded from registration, the Competent Authority shall refuse the registration.

(d) If the applicant amends the application or communicates observations within the prescribed time limit and the Competent Authority considers that the trademark may be registered, Article 24 shall apply.

23.3 If the Competent Authority finds that the registration of the trademark is precluded on any of the grounds referred to in Subarticle 22.1 in relation to only part of the goods and services for which registration is requested:

(a) Subarticle 22.2 shall apply in respect of that part; and

(b) until a decision has been taken in respect of that part, the application of Article 24 shall be suspended.

Article 24

Publication of the Application

If the Competent Authority finds that an application meets the requirements set forth in paragraphs 22.1(a) and (b) and Subarticle 23.1, it shall cause the application to be published in the manner prescribed in the Regulations.

Article 25

Opposition

25.1 Within a period of two months from the publication of the application, any interested party may submit to the Competent Authority a notice of opposition to the registration of the trademark based on any of the grounds mentioned in Article 12 and Article 13, in the manner prescribed in the Regulations. The opposition must be made in writing and specify the grounds upon which it is made. The opponent may submit facts, evidence and arguments in support of his/her opposition.

25.2 The Competent Authority shall notify the opposition to the applicant and, within a period of two months and in the prescribed manner, the applicant may send to the Competent Authority a reply to the opposition.

25.3 If the applicant sends a reply to the opposition, the Competent Authority shall furnish a copy thereof to the opponent.

25.4 The Competent Authority shall examine the opposition and any reply received from

the applicant, and decide whether to refuse the registration of the trademark or reject the opposition. When the grounds of opposition are established in respect of only some goods or services, the opposition shall be decided accordingly.

Article 26

Registration

- 26.1 Where the application meets the requirements set out in this Chapter and where no opposition has been filed within the period referred to in Subarticle 25.1 or where an opposition has been filed within that period but has been finally withdrawn or rejected, the Competent Authority shall register the trademark and publish the registration in the manner prescribed in the Regulations.
- 26.2 The Competent Authority shall issue to the applicant a certificate of registration.

Section III

Term of Protection and Exclusive Rights

Article 27

Term of Protection

A trademark shall be registered for a period of ten years from the date of the registration.

Article 28

Renewal of Registration

- 28.1 The registration of a trademark may be renewed for further consecutive periods of ten years each, upon compliance with the prescribed requirements and payment of the prescribed renewal fee.
- 28.2 A period of grace of six months following the expiration of the period of registration shall be allowed to renew the registration, upon payment of the prescribed surcharge.

Article 29

Indication of registration

- 29.1 During the term of the registration, the trademark owner may use the words “Marca Registrada”, the initials “M.R.,” “R” or “®” on the goods or in connection with the provision of services.
- 29.2 No indication of the registration of the trademark is required upon the goods or in connection with the provision of services as a condition of recognition of the right to protection.

Article 30
Rights Conferred by Registration

- 30.1 The owner of a registered trademark shall have the exclusive right to prevent any unauthorized person from using, in the course of trade, any sign that is identical with, or similar to, the registered trademark, for goods or services that are identical with, or similar to, the goods and services in respect of which the trademark is registered, where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.
- 30.2 The owner of a registered well-known trademark shall have the exclusive right to prevent any unauthorized person from using, in the course of trade, any sign that is identical with, or similar to, the registered well-known trademark, for goods or services that are dissimilar to the goods or services for which the registered well-known trademark is used, where such use would indicate a connection between the goods and services for which it is used and the owner of the registered well-known trademark and the interests of the owner of the registered well-known trademark are likely to be damaged by such use.

Article 31
Exhaustion of rights

- 31.1 The rights conferred by the registration of a trademark shall not allow the trademark owner to prohibit its use in relation to goods which have been put on the market in Timor-Leste or abroad by the trademark owner or with his/her consent.
- 31.2 Subarticle 31.1 shall not apply where there exist legitimate reasons for the owner to oppose further commercialization of the goods, especially where the goods are modified or altered after they have been put on the market.

Article 32
Limitations to the Rights Conferred by Registration

- 32.1 The rights conferred through the registration of a trademark may not be exercised to prevent:
- (a) the use of a registered trademark by any person for the purpose of indicating truthfully that the goods or services that bear the trademark originate with the owner or a licensee of the trademark;
 - (b) the use of indications concerning the kind, quality, quantity, value, geographical origin, time of production or supply of goods, time of rendering of services, or other characteristics of goods or services;
 - (c) the use of the registered trademark by any person where this is necessary to indicate the intended purpose of goods or services, in particular with respect to

accessories or spare parts;

(d) the use of a person's name, address, place of business or place of production or distribution of goods or services, or those of that person's predecessor in business.

32.2 The acts under paragraphs 32.1(a) to (d) shall only limit the rights of the owner of the registered trademark if they are performed in accordance with honest practices and do not cause confusion regarding the provenance of the goods or services in relation to which they are performed.

Article 33

Non-alterability of a Trademark

33.1 A trademark must be kept unaltered. Any change to its constitutive elements shall be the subject of a new registration.

33.2 Subarticle 33.1 shall not apply to simple modifications that do not affect the identity of the trademark and only affect its proportions, the material on which it has been stamped, printed or reproduced and the ink or color, if these have not been expressly claimed as one of the specific features of the trademark.

33.3 The identity of a trademark shall also not be affected by the inclusion or deletion of an express indication of the good or service for which the trademark is designed nor by any alteration of the trademark owner's domicile or place of business.

33.4 A trademark consisting of a word or words shall only be subject to the rules of non-alterability in relation to the expressions that make up the trademark. It may be used with any figurative aspect, provided it does not violate the rights of third parties.

Section IV

Changes in Ownership, Licenses and Corrections

Article 34

Changes in Ownership

34.1 The Competent Authority shall record any change in the ownership of the registration of a trademark, in respect of some or all of the goods and/or services, at the written request of either the registered owner or the new owner of the registration.

34.2 Subarticle 34.1 shall apply, mutatis mutandis, where the change in ownership concerns an application, provided that where the application number has not yet been issued or is not known to the applicant or his/her representative, the request otherwise identifies that application.

34.3 The request to record a change in ownership shall comply with the requirements

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prescribed in the Regulations.

34.4 A change in ownership of a registration or an application shall have no effect against third parties until it has been recorded.

34.5 (a) The ownership in a registration or an application may be changed without the transfer of the business to which the trademark belongs.

(b) Any change in the ownership of a registration or an application shall be invalid if it is likely to deceive or cause confusion, particularly as regards the nature, origin, manufacturing process, characteristics, or suitability for their purpose, of the goods or services covered by the trademark.

Article 35

Licenses

35.1 The Competent Authority shall record any license concerning a registered trademark at the written request of the owner of the registered trademark or the licensee.

35.2 The request to record a license shall comply with the requirements prescribed by the Regulations.

35.3 A license contract shall have no effect against third parties until it has been recorded.

Article 36

Correction of Errors

36.1 The Competent Authority may, subject to the provisions in the Regulations, correct any error of translation or transcription, or any clerical error or mistake in a registration or in any recording effected in the Registry.

36.2 Any correction of a trademark registration shall be recorded in the Registry and a reference thereto published as soon as possible.

Section V
Trademarks as Objects of Property

Article 37
Rights in rem on a Registered Trademark

- 37.1 A registered trademark may be given as security or be the subject of rights in rem.
- 37.2 On request of one of the parties, the rights mentioned in Subarticle 37.1 shall be entered in the Registry and published.

Section VI
Termination of Rights

Article 38
Surrender

- 38.1 At any time after the registration, a trademark may be surrendered in respect of some or all of the goods or services for which it is registered.
- 38.2 The surrender shall be declared to the Competent Authority in writing by the owner of the trademark, as prescribed in the Regulations. It shall not have effect until it has been entered in the Registry.
- 38.3 If a license has been recorded, surrender shall be entered in the Registry only if the owner of the trademark has informed the licensee of his/her intention to surrender.

Article 39
Invalidation

- 39.1 Upon request by any interested party, the Competent Court shall invalidate the registration of a trademark if it is proven that the registered trademark does not comply with the definition of a trademark provided in Article 11 or that the trademark should not have been registered in accordance with Article 12.
- 39.2 Upon request by any interested party, the Competent Court shall invalidate the registration of a trademark if it is proven that the registered trademark should not have been registered in accordance with Article 13.
- 39.3 (a) A request for invalidation pursuant to Subarticle 39.1 may be filed at any time.
- (b) A request for invalidation pursuant to Subarticle 39.2 may not be filed after the expiration of a period of five years counted from the date of the registration, unless

the registration was obtained in bad faith.

- 39.4 Where grounds for invalidation exist in respect of only some of the goods or services for which the trademark is registered, the registration shall be invalidated in relation to those goods or services only.
- 39.5 The consequences of any invalidation of the registration of a trademark shall be that the registration is deemed not to have had the effects specified in this Chapter, as from the date of registration.
- 39.6 Any invalidation shall be recorded in the Registry and a reference thereto published as soon as possible.

Article 40

Cancellation

- 40.1 Upon request by any interested party, the Competent Court shall cancel the registration of a trademark if it is proven that:
- (a) up to one month prior to filing the request, the trademark has not been put to genuine use in Timor-Leste in relation to the goods or services for which it is registered within a period of five years from the date of registration, and there are no justified reasons for such failure to use;
 - (b) up to one month prior to filing the request, use of the trademark has been suspended for an uninterrupted period of five years, and there are no justified reasons for such failure to use;
 - (c) in consequence of acts or inactivity of the registered owner, the trademark has become the common name in the trade for a product or service in respect of which it is registered;
 - (d) in consequence of the use made of the trademark by the registered owner of the trademark or with his consent in respect of the goods or services for which it is registered, the trademark is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.
- 40.2 For the purpose of Subarticle 40.1, use of a trademark includes use in a form differing in elements which do not alter the distinctive character of the trademark in the form in which it was registered.
- 40.3 Where in any proceedings under this Code it is required to prove the use to which a trademark has been put, including the duration, nature or scope of the use, the burden of such proof shall lie with the registered owner.
- 40.4 Where the grounds for cancellation listed in Subarticle 40.1 exist in respect of only some of the goods or services for which the trademark is registered, the registration

shall be cancelled in relation to those goods or services only.

40.5 Any cancellation of the registration of a trademark has the effect that the registration is deemed to have ceased to have any legal effect, within the limits of the cancellation, as from the date of the application for cancellation.

40.6 Any cancellation shall be recorded in the Registry and a reference thereto published as soon as possible.

Article 41 **Incontestability**

41.1 The owner of a registered trademark that has factual knowledge of and tolerates the use of a subsequent registered trademark for a period of five consecutive years shall forfeit the right, based on ownership of a prior trademark, to apply for cancellation of the registration of the later trademark or to oppose its use in relation to the goods or services with which the later trademark has been used. However, no time limit shall be fixed to apply for the cancellation or the prohibition of the use of trademarks registered or used in bad faith.

41.2 The five-year period provided for in Subarticle 41.1 shall begin on the date on which the trademark owner becomes aware of the use.

41.3 The owner of a subsequently registered trademark may not oppose the pre-existing right, even if that right cannot be invoked against the later trademark.

Article 42
Lapse

- 42.1 The registration of the trademark shall lapse upon expiry of the term of protection provided for in Article 27, unless it is renewed according to Article 28.
- 42.2 The lapse of the registration of a trademark shall be recorded in the Registry and a reference thereto published as soon as possible.

Section VII
Collective and Certification Marks

Article 43
Collective Marks

- 43.1 Articles 12 to 42 shall apply mutatis mutandis to collective marks. The applicant or owner of the registration of a collective mark is not required to possess an industrial or commercial establishment.
- 43.2 (a) The application for the registration of a collective mark shall designate the trademark as a collective mark and shall be accompanied by a copy of the Regulations governing the use of that trademark, a copy of the statutes of the collective organization and a list of members of the collective association, all of which shall be published.
- (b) Any changes made in respect of the Regulations referred to in paragraph 43.2(a) shall be communicated to the Competent Authority, who shall record the changes and publish a reference thereto.
- 43.3 A collective mark may not be the subject of a license contract.
- 43.4 Collective marks shall not be transferrable, except where permitted by a special provision in the law, statutes or regulations.

Article 44
Certification Marks

- 44.1 Articles 12 to 42 shall apply mutatis mutandis to certification marks.
- 44.2 (a) The application for the registration of a certification mark shall designate the trademark as a certification mark and shall be accompanied by a copy of the Regulations governing the use of that trademark, which shall be published.
- (b) Any changes made in respect of the Regulations referred to in paragraph 44.2(a)

shall be communicated to the Competent Authority, who shall record the changes.

- 44.3 The owner of a certification mark may not use the trademark to certify its own goods or services.
- 44.4 Upon request by any interested party, the Competent Authority or the competent Court shall invalidate the registration of a certification mark if it is proven that the registered owner has contravened the provision in Subarticle 44.3, or that he/she permits use of the trademark in contravention of the Regulations referred to in Subarticle 44.2 or in a manner liable to deceive trade circles or the public as to the origin or any other common characteristics of the goods or services concerned.
- 44.5 Certification marks shall not be transferrable, except where permitted by a special provision in the law, statutes or regulations.

CHAPTER III

GEOGRAPHICAL INDICATIONS

Section I

Scope of Subject Matter

Article 45

Definitions

For the purposes of this Chapter,

“Applicant” shall mean the group of producers or the competent entity under Subarticle 49.2.

“Geographical Indication” shall mean any indication that identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;

“Good” shall mean any natural or agricultural product or any product of handicraft or industry;

“Producer” shall mean:

- (a) an operator engaged in any production step of a product, including processing activities or any other person exploiting natural products; and
- (b) any manufacturer of products of handicraft, or industry.

Article 46
Exclusion from Protection

The following shall not be protected as a geographical indication:

- (a) an indication that does not comply with the definition of geographical indication in Article 45;
- (b) an indication the use of which must be prevented on grounds of public order or morality;
- (c) a geographical indication that is not, or that ceases to be, protected in its country of origin, or which has fallen into disuse in that country;
- (d) an indication that is identical with the term customary in common language in Timor Leste as the common name for the relevant good;
- (e) an indication that violates prior intellectual property rights acquired in good faith.

Article 47
Homonymous Geographical Indications

The Competent Authority may allow homonymous geographical indications to be concurrently registered if it is satisfied that neither of them falsely represent to the public that the good originates in another territory. In case of permitted concurrent registration of such indications, the Competent Authority shall determine the practical conditions under which the homonymous indications will be differentiated, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

Section II
Registration

Article 48
Acquisition of the Right to a Geographical Indication

The right to a geographical indication shall be acquired through registration in accordance with the provisions of this Code or on the basis of international treaties, including bilateral agreements, to which Timor-Leste is a party.

Article 49
Right to File Application

- 49.1 An application for the registration of a geographical indication shall be filed with the Competent Authority.
- 49.2 The following shall have the right to file an application for registration of a geographical indication:
- (a) a group of producers that operate in a specified geographical area and with respect to a specified good;
 - (b) any competent entity on behalf of the group of producers indicated in paragraph 49.2(a).

Article 50
Application for Registration

- 50.1 An application for the registration of a geographical indication shall contain:
- (a) a request for registration of a geographical indication;
 - (b) the name and address of the group of producers or competent entity filing the application, as prescribed in the Regulations;
 - (c) where the applicant has a representative, the name and address of that representative, as prescribed in the Regulations;
 - (d) the name of the geographical indication for which registration is sought;
 - (e) the specification of the geographical area to which the geographical indication applies, as prescribed in the Regulations;
 - (f) an indication of the good designated by the geographical indication;
 - (g) a description of the quality, reputation or other characteristic of the good essentially attributable to its geographical origin, as prescribed in the Regulations;
 - (h) details establishing the link between a given quality, the reputation or other characteristic of the good and the geographical origin;
 - (i) where the geographical indication concerns a good originating in a third country, legal proof of protection of the geographical indication in the country of origin;
 - (j) any other element prescribed in the Regulations.
- 50.2 The application for registration shall be subject to the payment of the prescribed fee.

Article 51
Amendment and Correction of the Application

A request for amendment or correction in the application may be filed by the applicant anytime during the registration procedure. Amendments that affect the name of the geographical indication requested for registration or the name of the good identified by the geographical indication shall not be accepted; they may be the subject of a new application.

Article 52
Withdrawal of the Application

The applicant may, at any time before the registration of the geographical indication, withdraw his/her application for registration.

Article 53
Examination of the Application as to Form

- 53.1 The Competent Authority shall examine whether the application complies with the requirements provided for in Article 50.
- 53.2 If the examination reveals that the application does not comply with all the requirements referred to in Subarticle 53.1, the Competent Authority shall invite the applicant to remedy the irregularity within a time limit prescribed in the Regulations.
- 53.3 If the irregularities with regard to the requirements referred to in Subarticle 53.1 are not remedied within the prescribed time limit, the application shall be regarded as abandoned and the applicant shall be informed accordingly.

Article 54
Examination of the Application as to Grounds for Refusal

- 54.1 The Competent Authority shall examine whether the indication in the application is not excluded from protection under paragraph 46(b) and whether the applicant has the right to file the application as per Subarticle 49.2.
- 54.2 (a) Where the Competent Authority finds that the requirements referred to in Subarticle 54.1 are not fulfilled, it shall notify the applicant accordingly, stating the reasons why the application shall be refused. The notification shall invite the applicant to amend the application or to communicate observations on the grounds for refusal, within a time limit prescribed in the Regulations.

(b) If the applicant does not amend the application or does not communicate any observations within the prescribed time limit, the Competent Authority shall refuse the registration.

(c) If the applicant amends the application or communicates observations within the prescribed time limit but the Competent Authority continues to consider that the indication is precluded from registration, the Competent Authority shall refuse the registration.

(d) If the applicant amends the application or communicates observations within the prescribed time limit and the Competent Authority considers that the geographical indication may be registered, Article 55 shall apply.

Article 55

Publication of the Application

If the Competent Authority finds that an application meets the requirements set forth in paragraph 46(b), Subarticle 49.2 and Article 50, it shall cause the application to be published in the Industrial Property Gazette in the manner prescribed in the Regulations.

Article 56

Opposition

56.1 Within a period of two months from the publication of the application, any interested party may submit to the Competent Authority a notice of opposition to the registration of the geographical indication based on any of the grounds mentioned in Article 46, Subarticle 49.2 and Subarticle 60.2, in the manner prescribed in the Regulations. The opposition must be made in writing and specify the grounds upon which it is made. The opponent may submit facts, evidence and arguments in support of his/her opposition.

56.2 The Competent Authority shall notify the opposition to the applicant and, within a period of two months and in the prescribed manner, the applicant may send to the Competent Authority a reply to the opposition.

56.3 If the applicant sends a reply to the opposition, the Competent Authority shall furnish a copy thereof to the opponent.

56.4 The Competent Authority shall examine the opposition and any reply received from the applicant and decide whether to refuse the registration of the geographical indication or reject the opposition.

Article 57

Registration

57.1 Where the application meets the requirements set out in this Chapter and where no opposition has been filed within the period referred to in Subarticle 56.1, or where an opposition has been filed within that period but has been finally withdrawn or

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rejected, the Competent Authority shall register the geographical indication and publish the registration in the manner prescribed in the Regulations.

57.2 The Competent Authority shall issue to the applicant a certificate of registration.

Section III

Term of Protection and Exclusive Rights

Article 58

Duration of Registration

The duration of the registration for a geographical indication shall be unlimited.

Article 59

Indication of registration

During the period of validity of a registration for a geographical indication, the goods for which the respective use is authorized may bear the reference “Indicação geográfica registada” or “IG.”

Article 60

Rights Conferred by Registration

60.1 Geographical indications shall be protected against:

- (a) the use of any means in the presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin, in a manner which misleads the public as to the geographical origin of the good;
- (b) any use that would constitute an act of unfair competition within the meaning of Article 10bis of the Paris Convention, or
- (c) any use in respect of goods of the same kind as those designated by the geographical indication not originating in the geographical area of origin or not complying with any other applicable requirements for using it, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by waivers, de-localizing clarifications or expressions such as “kind”, “type”, “style”, “imitation” or others of similar effect.

60.2 Protection under Subarticle 60.1 shall be available against another geographical indication which, although literally true as to the territory, region or locality in which the good originates, falsely represents to the public that the good originates in another territory.

Article 61
Limitations to the Rights Conferred by Registration

61.1 Nothing in this Code shall prevent continued and similar use in Timor Leste of a particular foreign geographical indication identifying wines or spirits by any national or domiciliary of Timor Leste who has used that geographical indication in connection with goods or services in the territory of Timor Leste, in a continuous manner with regard to the same or related goods or services, either:

1. for at least 10 years preceding April 15, 1994; or
2. in good faith at any time prior to that date.

61.2 Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either:

- (a) before the date of entry into force of this Code; or
- (b) before the geographical indication is protected in its country of origin;

the registrability or the validity of the registration of that trademark, or the right to use that trademark, shall not be affected on grounds that such trademark is identical with, or similar to, a geographical indication.

61.3 The rights conferred by registration of a geographical indication may not be exercised to prevent the use, in the course of trade, of a person's name or the name of that person's predecessor in business, except where such name is used in such a manner as to mislead the public.

Article 62
Right to Use a Geographical Indication

Only producers carrying on their activity in the geographical area specified in the Registry shall have the right to use a protected geographical indication, in the course of trade, with respect to the goods specified in the Registry for that indication,

provided that such products possess the quality, reputation and/or other characteristic specified in the Registry.

Section IV Amendment of Registration and Corrections

Article 63 Amendment of Registration and Corrections

- 63.1 A group of producers having a legitimate interest may apply to the Competent Authority for approval of an amendment to a registration of a geographical indication. Where the amendment involves one or more substantial elements, the amendment shall follow the procedure laid down in Articles 50 to 57.
- 63.2 In any proceedings under this section, the Competent Authority shall cause a notice of the request:
- (a) to be served on the group of producers or competent entity who filed the application for registration of the geographical indication; and
 - (b) to be given by publication in the Industrial Property Gazette to all persons having the right to use the registered geographical indication.
- 63.3 The Competent Authority may, subject to the provisions in the Regulations, correct any error of translation or transcription, or any clerical error or mistake in a registration or in any recording effected in the Registry.
- 63.4 Any correction of a registration shall be recorded in the Registry and a reference thereto published as soon as possible.

Section V Termination of Rights

Article 64 Invalidation

- 64.1 Upon request by any interested party, the Court shall invalidate the registration of a geographical indication if it is proven that the registered indication should not have been registered as such under Article 46, Subarticle 49.2 or Subarticle 60.2.
- 64.2 A request for invalidation pursuant to Subarticle 64.1 may be filed at any time.

64.3 The consequences of any invalidation of the registration of a geographical indication shall be that the registration is deemed not to have had any effect as from the date of registration.

64.4 Any invalidation shall be recorded in the Registry and a reference thereto published as soon as possible.

Article 65 Cancellation

65.1 Upon request by any interested party, the Court shall cancel the registration of a geographical indication if it is proven that:

(a) it becomes impossible to ensure compliance with the quality, reputation or the characteristics of the good due to changes or disappearance of conditions of the geographical environment or its inherent natural and/or human factors specific for the defined geographical area, as per the definition of the geographical indication in Article 45;

(b) the geographical indication is no longer protected in its country of origin - in case it is located geographically in a third country;

(c) the geographical indication is no longer protected under the international treaties, including bilateral agreements, to which Timor Leste is a party;

65.2 The consequences of any cancellation of the registration of a geographical indication shall be that the registration is deemed to have ceased to have any legal effect, as from the date of the application for cancellation.

65.3 Any cancellation shall be recorded and a reference thereto published as soon as possible.

CHAPTER IV INDUSTRIAL DESIGNS

Section I Scope of Subject Matter

Article 66 Definitions

For the purposes of this Chapter,

“Industrial Design” shall mean the appearance of a product resulting from features of,

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in particular, the shape, lines, contours, colors, texture or materials of the product itself and/or its ornamentation;

“Product” shall mean any industrial or handicraft item;

“Locarno Classification” shall mean the classification according to the Locarno Agreement Establishing an International Classification for Industrial Designs, signed on October 8, 1968, as revised and amended.

Article 67

Requirements for Protection

67.1 An independently created industrial design shall be protected if it is new.

67.2 (a) An industrial design shall be deemed to be new if no identical design has been disclosed to the public anywhere in the world by publication, exhibition, use in trade or in any other way, prior to the filing date of the application for registration of the industrial design for which protection is sought or, if priority is claimed, the date of priority.

(b) Designs shall be deemed to be identical if their features differ only in immaterial details.

Article 68

Grace Period for Filing in Case of Disclosure

For the purpose of applying Subarticle 67.2, a disclosure to the public of the industrial design, during a period of 12 months preceding the filing date of the application or, if priority is claimed, the date of priority, shall be without prejudice to the novelty of the industrial design, where it was made:

(a) by the creator or his/her successor in title; or

(b) by a person who obtained information about the industrial design directly or indirectly, including as a result of an abuse, from the creator or his/her successor in title.

Article 69

Matter Excluded from Protection

69.1 Protection under this Chapter shall not extend to industrial designs dictated essentially by technical or functional considerations.

69.2 An industrial design shall not be protected if it is contrary to public order or morality.

Section II

Registration

Article 70

Acquisition of the Exclusive Right to an Industrial Design

The exclusive right to an industrial design shall be acquired through registration in accordance with the provisions of this Code.

Article 71

Right to File an Application; Naming of Designer

- 71.1 The right to file an application for the registration of an industrial design shall belong to the designer or his/her successor in title.
- 71.2 Where two or more persons have jointly created an industrial design, the right to file an application for the registration of an industrial design shall belong to them jointly.
- 71.3 The right to file an application for the registration of an industrial design may be assigned or transferred by succession.
- 71.4 Where an industrial design is created in execution of a contract of employment, the right to file an application for the registration of the industrial design shall belong to the employer, unless otherwise agreed.
- 71.5 The designer shall be named in the application unless, in a special written declaration signed by him/her and addressed to the Competent Authority, he/she indicates that he/she wishes not to be named. Any promise or undertaking by the designer to the effect that he/she will make such a declaration shall be without legal effect.
- 71.6 If and to the extent to which two or more persons have created the same industrial design independently of each other, the person whose application for registration has the earliest filing date or, if priority is claimed, the earliest validly claimed date of priority shall be entitled to the industrial design, as long as the said application is not withdrawn, abandoned or rejected.

Article 72

Application for Registration

- 72.1 An application for the registration of an industrial design shall be filed with the Competent Authority in the form prescribed in the Regulations and shall contain:
 - (a) a request for registration;
 - (b) the name and address of the applicant, as prescribed in the Regulations;
 - (c) a representation of the industrial design, as prescribed in the Regulations;

(d)an indication of the product or products incorporating the industrial design, or in relation to which the industrial design is to be used;

(e)any further indication or element prescribed in the Regulations.

72.2 The application shall be subject to the payment of the prescribed fees.

72.3 The application may contain up to one hundred industrial designs provided that all the products incorporating the industrial designs, or in relation to which the industrial designs are to be used, belong to the same class of the Locarno Classification.

72.4 The application may contain a request that the publication of the industrial design be deferred for a specified period not exceeding 30 months from the filing date of the application for registration of the industrial design for which protection is sought or, if priority is claimed, the date of priority.

Article 73

Filing Date

73.1 The filing date of an application for the registration of an industrial design shall be the date on which the Competent Authority receives all the following elements and indications:

(a)an express or implicit indication to the effect that the elements are intended to be an application for registration of an industrial design;

(b)indications allowing the identity of the applicant to be established;

(c) a sufficiently clear representation of the industrial design for which registration is sought.

73.2 No filing date shall be accorded until the filing fees prescribed in the Regulations have been paid.

Article 74

Right of Priority

74.1 An application may contain a declaration claiming, in accordance with the Paris Convention, the priority of one or more earlier applications duly filed for the same industrial design by the applicant or his predecessor in title in or for any State party to the said Convention or any Member of the World Trade Organization. The period of priority shall be of six months from the filing date of the earlier application and shall be computed in accordance with the provisions of Article 4 of the Paris Convention.

74.2 The declaration claiming priority of the earlier application shall indicate

- (a) the date of filing of the earlier application;
 - (b) the number of the earlier application as far as known by the applicant at the time of applying for the registration of the same industrial design in Timor-Leste; and
 - (c) the country or the office in which the earlier application was filed.
- 74.3 Where the application contains a declaration claiming priority, the applicant shall, within three months of filing the application, furnish the documentation in support of the priority claim, as prescribed in the Regulations.
- 74.4 The effect of the claiming of priority shall be that an application filed within the priority period shall not be refused or invalidated by reason of any acts accomplished during that period, in particular, another filing or the publication of the industrial design or putting on sales of copies of the industrial design, and such acts shall not give rise to any third party right or any right of personal possession.
- 74.5 If the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.

Article 75

Exhibition Priority

- 75.1 An applicant who has displayed product(s), which incorporate(s) the industrial design, or in relation to which the industrial design is to be used, at an official or officially recognized international exhibition may claim a right of exhibition priority during a period of six months from the date of the first display of the product(s) which incorporate(s) the industrial design, or in relation to which the industrial design is to be used.
- 75.2 In order to claim the right of exhibition priority under Subarticle 75.1, an applicant must declare in the application for the registration of an industrial design that he/she wishes to take advantage of the protection arising from the display of product(s), which incorporate(s) the industrial design, or in relation to which the industrial design is to be used.
- 75.3 Where the application contains a declaration under Subarticle 75.2, the applicant shall, within three months of the filing of the application, furnish evidence of the display of product(s), which incorporate(s) the industrial design, or in relation to which the industrial design is to be used.
- 75.4 Claiming exhibition priority shall have the effect that the date of the first display of the product(s), which incorporate(s) the industrial design, or in relation to which the industrial design is to be used, shall count as the filing date of the application for registration of the industrial design.

75.5 An exhibition priority granted does not extend the period of priority laid down in Subarticle 74.1.

Article 76

Amendment and Correction of the Application

A request for amendment or correction of the application may be filed by the applicant at any time during the registration procedure. An amendment or correction shall not be accepted if it involves a change in or addition to any of the industrial designs contained in the application.

Article 77

Division of the Application

- 77.1 The applicant may divide the application (hereinafter “the initial application”) at any time during the registration procedure in order to separate into two or more applications (hereinafter “divisional applications”) the industrial designs contained in the initial application. A division shall not be accepted if it involves a change in or addition to any of the industrial designs contained in the initial application.
- 77.2 Each divisional application shall preserve the filing date of the initial application and the benefit of the claim of priority, if applicable. After the division, each divisional application shall be independent.

Article 78

Withdrawal of the Application

The applicant may withdraw his/her application, entirely or in respect of one or more industrial designs, at any time during the registration procedure.

Article 79

Examination of the Application

- 79.1 The Competent Authority shall examine whether:
- (a) the application complies with the requirements for according a filing date pursuant to Article 73;
 - (b) the application complies with the requirements provided for in Subarticle 72.1 to 3 and the Regulations pertaining thereto;
 - (c) the industrial design contained in the application complies with the definition of an industrial design under Article 66 and with the requirements under Subarticle 69.2;
 - (d) where an application contains a declaration claiming priority pursuant to Article 74, the requirements provided for in Subarticle 74.2 and 3 have been complied with;

(e) where an application contains a declaration claiming exhibition priority pursuant to Article 75, the requirements provided for in Subarticle 75.2 and 3 have been complied with.

79.2 If the examination reveals that the application does not comply with all the requirements referred to in Subarticle 79.2(a), (b), (d) or (e), the Competent Authority shall invite the applicant to remedy the irregularity within the time limit prescribed in the Regulations.

79.3 (a) If the irregularities with regard to the requirements referred to in Subarticle 79.1(a) are not remedied within the prescribed time limit, the application shall be regarded as not filed and the Competent Authority shall not proceed with the application.

(b) If the irregularities with regard to the requirements referred to in Subarticle 79.1(a) are remedied within the prescribed time limit, the Competent Authority shall accord as the filing date, the date on which all such irregularities are remedied.

79.4 If the irregularities with regard to the requirements referred to in Subarticle 79.1(b) are not remedied within the prescribed time limit, the application shall be regarded as abandoned and the applicant shall be informed accordingly.

79.5 If the irregularities with regard to the requirements referred to in Subarticle 79.1(c) or (d) are not remedied within the prescribed time limit, the declaration claiming priority or exhibition priority shall be considered not to have been made.

79.6 If the industrial design does not comply with the definition of an industrial design under Article 66 or the requirements under Subarticle 69.2, the Competent Authority shall refuse the application and notify the applicant accordingly.

Article 80

Publication of the Application

80.1 Subject to Subarticle 80.2 and 3, where the Competent Authority finds that the requirements referred to in Subarticle 79.1 are fulfilled, it shall cause the application to be published in the manner prescribed in the Regulations.

80.2 Where a request for deferment of publication has been made under Subarticle 72.4, the application shall not be published until the expiry of the period of deferment. No representation of the industrial design or any information relating to the application shall be open to public consultation, as long as the relevant entries in the Registry have not been published.

80.3 Unless otherwise requested by the applicant, the Competent Authority shall not publish the industrial design until the expiry of the period of deferment.

Article 81

Opposition

- 81.1 Within a period of two months from the publication of the application made under Article 80, any interested party may submit to the Competent Authority a notice of opposition to the registration of the industrial design, in the manner prescribed in the Regulations, based on the ground that the industrial design does not comply with the definition of an industrial design under Article 66 or that a requirement under Articles 67 to 69 has not been satisfied. The opposition must be made in writing and specify the grounds upon which it is made. The opponent may submit facts, evidence and arguments in support of his/her opposition.
- 81.2 The Competent Authority shall notify the opposition to the applicant and, within the period of two months and in the prescribed manner, the applicant may send to the Competent Authority a reply to the opposition.
- 81.3 If the applicant sends a reply to the opposition, the Competent Authority shall furnish a copy thereof to the opponent.
- 81.4 The Competent Authority shall examine the opposition and any reply received from the applicant, and decide whether to refuse the registration of the industrial design or reject the opposition. When the grounds for opposition are established in respect of only one or some of the industrial designs included in the application, the opposition shall be decided accordingly.

Article 82 Registration

- 82.1 Where the application meets the requirements set out in this Chapter and where no opposition has been filed within the period referred to in Subarticle 81.1, or where an opposition has been filed within that period but has been finally withdrawn or rejected, the Competent Authority shall register the industrial design in the Registry and publish the registration in the manner prescribed in the Regulations.
- 82.2 The Competent Authority shall issue to the applicant a certificate of registration.

Section III Term of Protection and Exclusive Rights

Article 83 Duration

The registration of an industrial design shall be for a period of five years as from the filing date of the application.

Article 84

Renewal of Registration

- 84.1 The registration may be renewed for one or more periods of five years, up to a total of 25 years from the filing date of the application, upon payment of the prescribed fee and in compliance with the requirements prescribed in the Regulations.
- 84.2 A period of grace of six months following the expiration of the period of registration shall be allowed to renew the registration, upon payment of the prescribed surcharge.
- 84.3 If the renewal does not take place as prescribed, the registration of the industrial design shall lapse.

Article 85 Indication of Registration

- 85.1 During the term of the registration of an industrial design, its owner may use on the relevant products the expression “Desenho nº” or the abbreviation “DM No.”.
- 85.2 No indication or mention of the registration of the industrial design shall be required upon the products as a condition of recognition of the right to protection.

Article 86 Rights Conferred by Registration

- 86.1 The registration of an industrial design shall confer on its owner the right to prevent third parties not having the owner’s consent from exploiting the registered industrial design in Timor-Leste.
- 86.2 For the purposes of this Chapter, “exploitation” of a registered industrial design means the making, selling or importing of articles bearing or embodying the registered industrial design, or an industrial design which is a copy or substantially a copy of the registered industrial design, when such acts are undertaken for commercial purposes.
- 86.3 Protection of a registered industrial design shall extend to designs that do not differ significantly from the registered industrial design.

Article 87 Limitations to the Rights Conferred by Registration

The rights conferred by the registration of an industrial design shall not extend to:

- (a) the use of the industrial design in the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Timor-Leste, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels;
- (b) acts done privately and for non-commercial purposes;

(c) acts done for experimental purposes;

(d) acts of reproduction for the purpose of making citations or of teaching, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the industrial design, and that mention is made of the source.

Article 88

Exhaustion of Rights

The rights conferred by the registration of an industrial design shall not extend to acts relating to a product bearing or embodying the registered industrial design after the product has been put on the market in Timor-Leste or abroad by the owner of the registered industrial design or with his/her consent.

Article 89

Relationship to Copyright

Nothing in this Chapter shall prevent a registered industrial design from enjoying any protection to which it may be entitled under the law of copyright of Timor-Leste, as from the date on which the design was created or fixed in any form.

Section IV

Change in Ownership, Licenses and Corrections

Article 90

Change in Ownership

- 90.1 The Competent Authority shall record any change in the ownership of the registration of an industrial design, at the written request of either the registered owner or the new owner of the registration. The Competent Authority shall also publish a reference to any recordal of a change in the ownership.
- 90.2 Subarticle 90.1 shall apply, mutatis mutandis, where the change in ownership concerns an application, provided that where the application number has not yet been issued or is not known to the applicant or his/her representative, the request otherwise identifies that application.
- 90.3 The request to record a change in ownership shall comply with the requirements prescribed in the Regulations.
- 90.4 A change in ownership of a registration or an application shall have no effect against third parties until it has been recorded.

Article 91

Licenses

- 91.1 The Competent Authority shall record any license concerning a registration of an industrial design at the written request of the owner or the licensee. The Competent Authority shall also publish a reference to any recording of a license.
- 91.2 The request to record a license shall comply with the requirements prescribed by the Regulations.
- 91.3 A license contract shall have no effect against third parties until it has been recorded.

Article 92

Correction of Errors

- 92.1 The Competent Authority may, subject to the provisions in the Regulations, correct any error of translation or transcription, clerical error or mistake in a registration or in any recording effected in the Registry.
- 92.2 Any correction of an industrial design registration shall be recorded in the Registry and a reference thereto published as soon as possible.

Section V

Industrial Designs as Objects of Property; Inalterability of Industrial Designs

Article 93

Rights in rem on a Registered Industrial Design

- 93.1 A registered industrial design may be given as security or be the subject of rights in rem.
- 93.2 On request of one of the parties, the rights mentioned in Subarticle 93.1 shall be entered in the Registry and published.

Article 94

Inalterability of Industrial Designs

- 94.1 Industrial designs shall remain unaltered for as long as registration is in effect.
- 94.2 Enlargement or reduction to scale shall not affect the inalterability of industrial designs.

Section VI

Termination of Rights

Article 95

Surrender

- 95.1 At any time after the registration, the industrial design right may be surrendered by its owner.
- 95.2 The surrender shall be declared to the Competent Authority in writing by the owner of the industrial design registration, as prescribed in the Regulations. It shall not have effect until it has been entered in the Registry.
- 95.3 If a license has been recorded, surrender shall be entered in the Registry only if the owner of the industrial design registration has informed the licensee of his/her intention to surrender.

Article 96

Invalidation

- 96.1 Any interested party may request the Competent Court to declare invalid the registration of an industrial design either wholly or in part.
- (a) The registration of an industrial design shall be declared invalid if it is established that:
- i. the design does not correspond to the definition of an industrial design under Article 66;
 - ii. the design does not fulfill the requirements of Articles 67 to 69;
 - iii. the person in whose name the industrial design was registered has no right to it under Article 71.
- (b) When the grounds for invalidation are established with respect to only one or some of the industrial designs included in the registration, invalidation shall be decided accordingly.
- 96.2 Any invalidated registration of an industrial design, or part thereof, shall be deemed not to have had the effects specified in this Chapter, as from the date of the registration.
- 96.3 (a) If an industrial design has been applied for or registered in the name of a person who is not entitled to it under Article 71, the person entitled to it under that provision may request the Competent Court to transfer the registration of the industrial design to him/her or, alternatively, to declare invalid the registration.
- (b) Where a person is jointly entitled to an industrial design, that person may request the Competent Court to have his/her name added as joint designer and, where applicable, as co-owner of the corresponding registration.

96.4 Any invalidation shall be recorded in the Registry and a reference thereto published as soon as possible.

CHAPTER V PATENTS

Section I Scope of Subject Matter

Article 97 Definitions

For the purposes of this Chapter:

- a) 'Budapest Treaty' shall mean the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on April 28, 1977, as last amended;
- b) 'examiner' shall mean a person duly appointed by the Competent Authority to exercise the specific duties and responsibilities related to patents, as prescribed in this Chapter, including the examination of patent applications;
- c) 'International Patent Classification' shall mean the common classification for patents, as established by the Strasbourg Agreement Concerning the International Patent Classification, of March 24, 1971, as last amended;
- d) 'inventor' shall mean the natural person who has created an invention;
- e) 'patent' shall mean the title granted to protect an invention.

Article 98 Patentable inventions

Patents shall be granted for any inventions, in all fields of technology, whether products or processes, provided that they are new, involve an inventive step and are susceptible of industrial application.

Article 99 Patentability requirements

1. An invention shall be considered new if it does not form part of the state of the art.

2. An invention shall be considered to involve an inventive step if, having regard to the state of the art, it would not have been obvious to a person skilled in the art. For the purposes of this paragraph, state of the art does not include content which fall under paragraph 2 of Article 100.

3. An invention shall be considered susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

Article 100

State of the art

1. The state of the art shall be deemed to comprise everything made available to the public before the filing date, or where priority is claimed, the priority date, of the patent application, whether by written or oral description, by use or by any other means, anywhere in the world.

2. The content of any patent application filed in Timor-Leste on an earlier date than the date referred to in the preceding paragraph shall be deemed as part of the state of the art, as long as it was published on or after that date.

Article 101

Non-prejudicial disclosures

1. For the purposes of paragraph 1 of Article 99, disclosure of an invention shall not be taken into consideration if it occurred within the six months preceding the filing date, or where priority is claimed, the priority date, of the patent application and if:

- a) the disclosure was made by the applicant or its legal predecessor when displaying the invention at an international exhibition; or
- b) the disclosure resulted from an evident abuse in relation to the applicant or the applicant's legal predecessor.

2. Subparagraph (a) of the preceding paragraph is only applicable if the applicant states, when filing the patent application, that the invention was so displayed, and for this purpose, files a certificate issued by the entity responsible for the international exhibition attesting the foregoing.

Article 102

Limitations on patentable subject matter

1. The following are not considered as inventions within the meaning of this Chapter:

- a) discoveries, scientific theories and mathematical methods;
- b) aesthetic creations;

- c) schemes, rules and methods for performing purely intellectual activities such as playing games or conducting business activities;
- d) computer programs, as such; and
- e) presentations of information.

2. The preceding paragraph only excludes the subject matter from patentability where, as presented in the patent application, it is limited to the elements mentioned in that paragraph.

Article 103 **Exclusion from patentability**

1. Inventions shall be excluded from patentability where their commercial exploitation would be contrary to public order, national security or morality, or would prejudice the environment or human, animal or plant life or health.

2. Under the terms of the preceding paragraph, the following are not patentable:

- a) processes for cloning of human beings;
- b) processes for modifying the genetic identity germline of human beings;
- c) processes for use of human embryos for industrial or commercial purposes; and
- d) processes for modifying the genetic identity of animals in a manner likely to cause them suffering without any substantial medical benefit for man or animal, and also any animals resulting from such processes;
- e) weapons of mass destruction and nuclear materials for weapons.

3. The following shall also not be patentable:

- a) the human body, at various stages of its formation or development, as well as the simple discovery of one of its elements, including the sequence or partial sequence of a gene, and including isolated forms of the foregoing;
- b) plant or animal varieties other than micro-organisms, as well as the essentially biological processes for the production of plants or animals other than non-biological and microbiological processes, including the plants or animals produced through such means.

4. For the purposes of the preceding paragraph, essentially biological process for the production of plants or animals means any process which consists entirely of natural phenomena such as crossing or selection.

5. Diagnostic, therapeutic and surgical methods for the treatment of humans or animals may not be patented. However, products, substances or compositions used in any of these methods may be patented.

Article 104

General rule on the right to a patent

1. The right to a patent shall belong to the inventor or the inventor's successor.
2. If an invention has been created by more than one inventor, the consent of all co-inventors must be obtained prior to filing a patent application, unless otherwise agreed.

Article 105

Inventions created in the course of employment

1. In the absence of an agreement to the contrary, an invention created in the course of employment and while using the employer's resources shall belong to the employer, who shall have the right to a patent.
2. If the employment contract between an employer and an inventor does not provide for a specific remuneration for inventions created in the course of employment, the inventor shall be entitled to a fair and reasonable remuneration, taking into consideration the invention's economic value.
3. The inventor shall bring the invention to the employer's attention duly upon the invention's creation.
4. In the absence of an agreement to the contrary, inventions for which a patent application is filed during the year following the cessation of the employment relationship between the employer and the inventor shall be considered to have been made in the course of employment, if the invention was created using the employer's resources.

Article 106

Inventions created in the course of a commissioned activity

1. In the event one party commissions another party, under a valid contract, to conduct a specific activity, which consequently results in an invention, the party which commissioned the activity shall have the right to a patent, unless otherwise agreed in writing.
2. For the purposes of the preceding paragraph, there shall be no additional remuneration due in the inventor's favor if the commissioned activity was already remunerated under the terms of the respective contract. If the activity was not remunerated, then the inventor shall be entitled to a fair and reasonable remuneration, taking into consideration the invention's economic value.

Article 107

Prohibition of anticipated waiver

Inventors' rights may not be waived in advance.

Article 108
Right to be named

1. The inventor shall have the right to be mentioned, named or designated as such in the patent application and in the patent.
2. The inventor may be not mentioned, named or designated as such in the publications which arise from the patent application if the inventor requests in writing not to be mentioned, named or designated.

Section II
Patent Registration

Article 109
Unity of invention

1. An application may only be filed for a single patent and each patent application shall relate to a single invention.
2. A group of inventions so linked as to form a single general inventive concept shall be considered a single invention for the purposes of a patent grant.
3. If the examination under Article 115 reveals that an application for a patent contains more than one invention, the applicant may, prior to grant, divide the application into a certain number of divisional applications and preserve as the date of each the filing date of the initial application and the benefit of the right of priority, if any.
4. Applicants may also, on their own initiative and prior to grant, divide a patent application and preserve, as the date of each divisional application, the initial filing date and the benefit of the right of priority, if any.

Article 110
Formal requirements of an application

1. Patent applications shall be filed with the Competent Authority, in Portuguese or Tetum language. The application shall be subject to the payment of a fee, and may be filed electronically or on paper, in accordance with applicable Regulations.
2. Patent application shall clearly indicate or contain:
 - a) the request for a patent;
 - b) the applicant's name, trade name or company name,

- c) the applicant's nationality and/or domicile, address and contact details;
- d) the name, address and contact details of the applicant's representative, as well as the power of attorney, if applicable;
- e) a heading or title which summarizes the subject of the invention;
- f) the inventor's name;
- g) the inventor's country of residence; and
- h) the signature of the applicant or the applicant's representative
- i) any other statement or declaration relevant to the patent application and supporting documents, as applicable.

3. Patent application shall further include specifications composed of the following elements, in Portuguese or Tetum languages, in conformance with Article 111:

- a) description of the invention;
- b) one or more claims;
- c) any drawings necessary for a clear and complete understanding of the description or the claims; and
- d) an abstract.

4. If, in accordance with Article 114, a patent application is filed claiming the priority of an earlier application filed outside of Timor-Leste, then the applicant shall provide the Competent Authority, at any time within three months of the filing and without paying additional fees, with the following:

- a) the date and filing number of the first application;
- b) the indication of the country where the first application was filed;
- c) a copy of the first application; and
- d) a translation of the application, if the prior application was made in a language other than Portuguese or Tetum.

5. Patent applications received by the Competent Authority shall be duly recorded in the Registry, assigned a number, and following their publication in accordance with Article 116, opened to public inspection.

6. In the event the applicant does not pay the applicable fees referred to in paragraph 1 of this Article within three months from the filing date, the application shall be deemed withdrawn.

Article 111

Content

1. The claims shall define the matter for which protection is sought, by identifying the features of the invention distinguishing it from the state of the art. Claims shall be clear, concise, accurate and be supported by the description.

2. The description shall indicate, without reservations or omissions, everything that constitutes the subject matter of the invention, disclosing the invention in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art.
3. The drawings shall be limited to the number of figures strictly necessary for the understanding of the invention.
4. The abstract shall consist of a brief statement of what is disclosed in the application, solely for the purpose of providing technical information. The abstract may not be taken into account for interpreting the scope of the protection sought.

Article 112

Biotechnology inventions

In the case of an invention relating to biological subject matter that is not accessible to the public and that cannot be described in the patent application in such a manner as to permit a person skilled in the art to carry it out, or to involve the use of subject matter of that type, the description and claims shall be considered to meet the requirements of the preceding Article, if:

- a) the biological subject matter has, by the date of the filing of the patent application, been deposited in a duly recognized international depositary institution under the Budapest Treaty;
- b) the patent application includes the relevant information available to the applicant concerning the characteristics of the deposited biological subject matter; and
- c) the patent application states the international depositary institution and the deposit number.

Article 113

Filing date

1. Upon the submission of all mandatory elements provided for in paragraphs 2 and 3 of Article 110, the application shall be accorded a filing date by the Competent Authority.
2. If Timor-Leste is the country where the application was first filed, then the filing date shall constitute the priority date.
3. If an application is sent by post with all the elements referred to in paragraph 1 of this Article, the postmark date shall be considered the filing date.
4. In the event that two applications for the same invention are simultaneous or have an identical priority date, the applications shall not proceed until the respective applicants have settled the issue of priority by agreement or in the Competent Court.

5. If an application is not immediately accompanied by all the elements referred to in paragraph 1 of this Article, the date on which the last of these elements is presented shall be considered to be the filing date.

Article 114

The right of priority

1. Any person, or their successor in title, who has duly filed, in any State party to the Paris Convention or any Member of the WTO, an application for a patent or a utility model (a “first application”), shall enjoy in Timor-Leste, for the purpose of filing a patent application in respect of the same invention, a right of priority during a period of twelve months from the date of filing of the first application.

2. Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements, shall be recognized as giving rise to a right of priority.

3. For the purposes of the preceding paragraph, a regular national filing shall mean any filing that is sufficient to establish the date on which the application was filed, regardless of what the application’s outcome may be.

4. Any filing before the expiration of the priority period referred to in paragraph 1 of this Article shall not be affected by reason of any acts accomplished in the interval between the priority date and the date of filing, in particular, another filing, or the disclosure or exploitation of the invention.

5. A subsequent application concerning the same subject as a previous first application within the meaning of paragraph 1 of this Article, filed in the same State, shall be considered as the first application, of which the filing date shall be the starting point of the priority period, if, at the time of filing the subsequent application, the said previous application has been withdrawn, abandoned, or refused, without having been laid open to public inspection and without leaving any rights outstanding, and if it has not yet served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

Article 115

Examination as to form

1. The Competent Authority shall allocate the patent application to an examiner, who shall examine the application to verify that it meets the formal requirements stipulated in this Section.

2. If the examination identifies formal irregularities in the application, the Competent Authority shall so notify the applicant or their representative, providing a description of the identified irregularity, and invite to correct such formal irregularities within one month.

3. If the applicant is unable to provide the required correction within the prescribed period, they may request the extension of the deadline by another month.
4. If the examiner determines that the corrections made to the application do not sufficiently remedy the irregularities, the Competent Authority shall so notify the applicant or their representative, and invite them to submit a second correction within one month.
5. If the applicant does not file the requested formal corrections within the stated period, or if the examiner determines that the corrections made by the applicant fail to sufficiently remedy the formal irregularities, the application shall be refused. The refusal shall be so recorded in the Registry.
6. If the Competent Authority, in accordance with this Article, determines that the application fully meets the formal requirements, it shall so notify the applicant or the applicant's representative.
7. The examination stipulated in paragraph 1 of this Article shall duly take into account the requirements specified in Articles 109 and 112, as applicable.

Article 116 **Publication of the application**

1. The Competent Authority shall duly publish the application in the Industrial Property Gazette 18 months from the application's filing date or, where priority is claimed, the priority date.
2. The publication referred to in the preceding paragraph shall include the identifying information specified in subparagraphs (b), (d), (e) and (f) of paragraph 2 of Article 110, the abstract specified in subparagraph (d) of paragraph 3 of Article 110, and the applicable International Patent Classification code. Further elements may be included in the publication, if so required under an applicable Regulation.
3. Notwithstanding paragraph 1 of this Article, publication may be expedited on the written request of the applicant.

Article 117 **Examination as to substance**

1. Upon receiving an instruction under Article 128 by the Competent Court to carry out an examination of a patent as to its substance, the Competent Authority shall so examine the patent. For this purpose, the Competent Authority shall appoint an examiner.
2. Examination as to substance shall seek to determine the patent's conformance with Articles 98 to 103, as well as Article 111.

3. For the purposes of the examination, the Competent Authority shall conduct a search to establish the state of the art within the meaning of Article 100.

4. For the purposes of the preceding paragraph, the examiner may rely on search and examination reports and other examination work products originating from abroad as pertains to the same invention, if applicable.

5. Results of the examination shall be presented in an examination report, and delivered to the Competent Court.

6. The search and examination reports established under this Article shall be duly recorded in the Registry and opened for public inspection.

Article 118

Amendments

1. Prior to grant, the applicant shall have the right to amend, by communicating in a request filed with the Competent Authority, the contents of the application at any time, insofar as the amendment does not extend the scope of the patent.

2. After its granting, the owner shall have the right to amend, communicated in a request filed with the Competent Authority and subject to the payment of the applicable fee, the contents of the patent, insofar as the amendment serves to limit the scope of the patent.

3. All amendments following the publication provided for in Article 116 must be duly recorded in the Registry and opened for public inspection.

Article 119

Decision to grant and the patent certificate

1. Where the notification under paragraph 6 of Article 115 is delivered before the publication provided for in Article 116, the publication shall be accompanied by a notice of grant in the Industrial Property Gazette, establishing the date of the publication as the date of grant.

2. Where the notification under paragraph 6 of Article 115 is delivered on or after the publication provided for in Article 116, a notice of grant shall be published in the Industrial Property Gazette as soon as practicable after the dispatch of that notification. The date of grant shall be the date of publication of the notice of grant in the Industrial Property Gazette. In this case, the notice of grant shall contain the information referred to in paragraph 2 of Article 116, with a reference to the availability of the patent, as granted, for public inspection.

3. Upon the grant of the patent, the Competent Authority shall record the granted patent in

the Registry, and arrange for the delivery of a patent certificate to the applicant or their representative within one month from the date of grant.

Section III

Term of Protection and Exclusive Rights

Article 120

Scope of protection

1. The scope of protection conferred by the patent shall be determined by the claims. The description and drawings in the patent shall be used for interpretation purposes.
2. If the subject matter of the patent is a process, the rights conferred shall apply to the products directly obtained by that patented process.

Article 121

Duration

The term of the patent shall be 20 years from the date of the filing of the application.

Article 122

Rights conferred by the patent

1. The patent shall confer on its owner the exclusive right to exploit the invention in the territory of Timor-Leste.
2. The patent shall also confer on its owner the right to prevent third parties from:
 - a) making, using, offering for sale, marketing, or selling a product which is the subject matter of the protected invention, or importing or stocking it for any of these purposes;
 - b) using a process which is the subject matter of the protected invention;
 - c) using, offering for sale, marketing, selling, importing or stocking for these purposes a product obtained directly by a process which is the subject matter of the protected invention.
3. The patent owner may oppose any acts which constitute an infringement of the rights conferred on him by the patent, even if such acts occur during the exploitation of an invention protected by another patent with a later priority date.

Article 123

Transfers of rights

1. Patent owners or their successors shall have the right to assign or license their patent rights or to transfer such rights by succession.
2. Where the patent belongs to more than one owner, any transfer of rights shall require the consent of the co-owners.
3. A license shall be considered nonexclusive unless otherwise specified.
4. An exclusive license shall prevent the owner from exercising the licensed rights or granting other licenses for the rights which are the subject of the license, for as long as the license is in force.
5. Transfers of patent rights must be done in writing.
6. Changes in the ownership of a patent shall not have an effect vis-a-vis third parties unless duly declared to the Competent Authority and recorded in the Registry. The Competent Authority shall record the change of ownership in the Registry upon receiving a declaration to this effect with documents that serve as evidence for the change of ownership, and subject to the payment of the applicable fee.

Article 124

Limitation on the rights conferred by the patent

1. The rights conferred by the patent shall not include the right to prevent:
 - a) acts which take place within a private sphere and without commercial purposes;
 - b) the extemporaneous preparation of medicines for individual cases, in a pharmacy or by a dispensing chemist, on a medical prescription or acts related to medicines so prepared;
 - c) acts performed for experimental purposes;
 - d) tests, trials and consequentially required acts necessary for the marketing authorization of a pharmaceutical or agricultural chemical product in the territory of Timor-Leste, irrespective of whether these acts are performed by natural or legal persons applying for the marketing authorization or by another natural or legal person acting on their behalf;
 - e) the use of the subject matter of a patented invention on a vessel or on the machinery, rigging, equipment or other accessories on board of vessels of member countries of international organizations of which Timor-Leste is a member when such vessels enter the national waters or airspace of Timor-Leste temporarily or accidentally, provided that such invention is exclusively used for the needs of such a vessel;
 - f) the use of the subject matter of the patented invention in the construction or operation of air or land transport vehicles of member countries of international organizations of which Timor-Leste is a member or of accessories of those vehicles, when such vehicles temporarily or accidentally enter the territory of Timor-Leste; or
 - g) acts specified in Article 27 of the Convention of December 7, 1944 on International Civil Aviation, if these acts concern aircraft of another country to which the provisions of

said Article apply.

2. Except for an agreement to the contrary between the patent owner and the third party concerned being in place, the following shall apply:

a) the sale or other form of commercialization of plant propagating material to a farmer by the patent owner or with the owner's consent for agricultural use implies authorization for the farmer to use the product of their harvest for propagation or multiplication by them on their own farm;

b) the sale or any other form of commercialization of breeding stock or other animal reproductive material to a farmer by, or with the consent of, the owner of the patent implies authorization for the farmer to use the protected livestock for an agricultural purpose. This includes making the animal or other animal reproductive material available for the purposes of pursuing their agricultural activity but not sale within the framework or for the purpose of a commercial reproduction activity.

Article 125

Right of prior use

1. Any person who, in good faith at the filing date or the priority date of a patent application, was using the invention or was making effective and serious preparations for its manufacture or for the use of the process of the invention claimed in a patent application, has the right to continue or initiate use of the patented invention to the extent of their prior knowledge and for the purposes of their own enterprise.

2. The right of prior use shall not be applicable if the relevant knowledge results from illicit acts or acts contrary to morality.

3. The right of prior use may only be transferred together with the entire enterprise or company in which the preparatory acts or use of the product or process subject to the patent were carried out.

4. The burden of proof to the right of prior use shall lie with the individual invoking such right.

Article 126

Application of limitations

The limitations specified in Articles 124 and 125 shall be construed and applied in a manner that does not unreasonably conflict with a normal exploitation of the patent and does not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

Article 127
Exhaustion of patent rights

The exclusive rights conferred by a patent shall not extend to acts in respect of products which have been legitimately put on the market by, or with the consent of, the patent owner anywhere in the world.

Article 128
Enforcement of a patent which was not examined as to substance

1. In the event the patent owner brings an action against a third party for the purposes of judicially enforcing the patent rights accorded under this Chapter, and if the Competent Court finds the said action admissible in accordance with its standard rules of procedure, then the Competent Court shall instruct the Competent Authority to examine the patent as to its substance, in accordance with Article 117.
2. The fees associated with the examination stipulated in the preceding paragraph shall be borne by the patent owner.
3. In the event the Competent Court decides in the patent owner's favor, the costs referred to in the preceding paragraph may be claimed as part of any financial damages resulting from the action, subject to the discretion of the Competent Court.

Section IV
Conditions on Use

Article 129
Encumbrances

As an object of property, a patent may be subject to liens, judicially-ordered transfers or similar procedures in order to satisfy legal or contractual obligations of the patent owner, in accordance with the terms of applicable Timorese law.

Article 130
Compulsory licensing

1. The Competent Court may permit the exploitation of a patent without the authorization of the patent owner, by granting a compulsory license to an interested party, on any of the following grounds:
 - a) nonworking or insufficient working of an invention, as set forth in Article 131;
 - b) to authorize the exploitation of a patent which cannot be exploited without infringing another patent, as set forth in Article 132;

- c) compelling public interest, as set forth in Article 133;
- d) for the purpose of remedying an anti-competitive behavior, as set forth in Article 134;
- e) for public non-commercial use, as set forth in Article 135.

2. Each application for compulsory license shall be considered on its individual merits.

3. The scope and duration of such licenses shall be limited to the purposes for which they are granted and they shall be predominantly used to supply the domestic market of Timor-Leste.

4. Compulsory licenses shall be:

- a) non-exclusive; and
- b) non-assignable except with the part of the company or establishment that works them pursuant to the license.

5. Compulsory licenses may only be granted if the interested party has made efforts to obtain the patent owner's authorization on reasonable commercial terms and conditions, and that such efforts have not been successful within a reasonable period of time.

6. Compulsory licenses shall be terminable, subject to adequate protection of the legitimate interests of the licensees, if and when the circumstances supporting the license cease to exist and are unlikely to recur. The Competent Court may review, upon motivated request, the continued existence of these circumstances.

7. Compulsory licenses involving patented semiconductor technology may only be granted for public noncommercial use or to remedy a practice determined after a judicial or administrative process to be anti-competitive.

8. The patent owner shall be entitled to adequate remuneration considering the circumstances of the case and taking into account the economic value of the license.

9. The legal validity of any decision relating to a compulsory license, or the amount of remuneration pertaining to a compulsory license, shall be subject to judicial review.

Article 131

Nonworking or insufficient working of inventions

1. Compulsory licenses may be granted if the patent has not been worked or insufficiently worked in Timor-Leste, after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last.

2. A request made under this Article shall be refused if the patent owner justifies their inaction by legitimate reasons.

3. For purposes of this Article, legitimate reasons shall be deemed to include objective difficulties of a technical or legal nature, independent of the will and situation of the patent owner, that make it impossible to work or sufficiently work the invention.

4. While a compulsory license on the basis of nonworking or insufficient working remains in force, the patent holder may not be compelled to grant another compulsory license.

5. A compulsory license issued on the basis of nonworking or insufficient working may be cancelled if the licensee does not work the license in such a way as to meet domestic needs.

Article 132

Patents which cannot be exploited without infringing another patent

If it is not possible to work an invention protected by a patent without infringing the rights conferred by an earlier patent, a compulsory license may be granted, to the extent necessary to work the later invention, under the following conditions:

- a) the essential nature of the earlier invention for the working of the later invention is proven;
- b) the invention claimed in the later patent involves an important technical advance of considerable economic significance in relation to the invention claimed in the earlier patent;
- c) the owner of the earlier patent is entitled to a cross-license on reasonable terms to use the invention claimed in the later patent; and
- d) the compulsory license issued in respect of the earlier patent is non-assignable except with the assignment of the later patent.

Article 133

Compelling public interest

1. Compulsory licenses may be granted for reasons of compelling public interest.

2. For the purposes of the preceding paragraph, compelling public interest shall be deemed to exist only in cases involving a national emergency or other circumstances of extreme urgency.

3. In situations falling within the preceding paragraph, the provisions of paragraph 5 of Article 130 shall not apply. Nonetheless, the patent owner shall be notified of the petition for a compulsory license as soon as reasonably practicable.

Article 134

Remedying an anti-competitive behavior

1. Compulsory licenses may be granted to remedy an anti-competitive behavior of the patent owner, where the existence of such anti-competitive behavior is established pursuant to a judicial or administrative process in accordance with applicable law.

2. The need to correct anti-competitive behavior may be taken into account when determining the amount of remuneration stipulated in paragraph 8 of Article 130.

Article 135

Public non-commercial use

1. Compulsory licenses may be granted for public non-commercial use by a State entity of Timor-Leste, or a contractor acting on the State's behalf.

2. In the case of public non-commercial use, where the entity intending to make use of the patent, without making a patent search, knows or has demonstrable grounds to know that a valid patent is or will be used under this Article, the owner shall be informed promptly.

Article 136

Applications for compulsory licenses

1. Any petition for a compulsory license must be filed with the Competent Court, furnishing all relevant documents and materials substantiating the request and the grounds thereof, in accordance with this Section.

2. Upon receiving a compulsory license petition, the Competent Court shall summon the patent owner to respond to the petition within two months, furnishing all relevant documents and materials in substantiation thereof.

3. In the event the Competent Court is unable to summon the patent owner directly, as specified in the preceding paragraph, it may instruct the Competent Authority to promptly notify the patent owner or the patent owner's representative through the Competent Authority's regular channels of communication.

4. The Competent Court shall come to a decision, within a reasonable time period after receiving the patent owner's response, and in light of any additional submissions made by either party, whether to grant the compulsory license and if so, what the conditions of such a license shall be, including the amount of remuneration destined for the patent owner.

5. The Competent Court may expedite its proceedings for compulsory licensing petitions submitted on grounds of Article 133.

Article 137

Notification and appeal

1. The grant or refusal of a compulsory license request, and the respective conditions established in a compulsory license, shall be notified to both parties, duly recorded in the Registry and published in the Industrial Property Gazette.
2. The decision of the Competent Court shall be subject to appeal in accordance with the law.

Section V
Maintenance, Limitation or Revocation of Patent Rights

Article 138
Maintenance of a patent

1. The maintenance of a patent shall be subject to the payment of an annual fee during patent's term, starting on the fourth year from the filing date.
2. Provisions of Article 141 shall apply with regards to the effect of non-payment and available remedies under law.

Article 139
Administrative revocation

1. The Competent Authority may decide, upon a request filed by any interested party at any time, in light of the evidence brought to the its attention, to revoke a granted patent, in its entirety, or one or more of its claims, as may be applicable.
2. The grounds for administrative revocation are the following:
 - a) the invention lacks novelty, an inventive step or industrial applicability under the provisions of Articles 98 to 101;
 - b) the subject matter is ineligible for patent protection under the provisions of Articles 102 to 103; or
 - c) the patent, as disclosed, does not meet the sufficiency of disclosure requirements under the provisions of Article 111.
3. In the event an interested party files a request for administrative revocation of a patent, it shall duly substantiate the grounds on which the request is based, and submit appropriate documentary evidence.
4. After receiving a request for administrative revocation, the Competent Authority shall determine whether the request complies with the preceding paragraph. If the request:
 - a) does not comply with the preceding paragraph, the Competent Authority shall declare the request inadmissible;

b) complies with the preceding paragraph, the Competent Authority shall admit the request and promptly notify the patent owner, who shall have three months to file a response with the Competent Authority.

5. If subparagraph (b) of the preceding paragraph applies, then the Competent Authority shall evaluate the request and the patent owner's response, and come to a decision, within a reasonable time period, as to whether it would revoke the patent. Where necessary, an oral hearing with the participation of both parties may be held.

6. The decision to revoke a patent shall be effective from the date on which the Competent Authority communicated its decision to the patent owner, and shall render the patent null and void. In the event of partial revocation, the patent shall continue to remain in force for the rest of its term, except for any claims which have been nullified by the Competent Authority's decision.

7. If a patent is revoked, whether partially or in its entirety, it shall be so recorded in the Registry. A corresponding notice shall be published in the Industrial Property Gazette.

8. Decisions taken by the Competent Authority under this Article shall be open to judicial review. The interested party which filed the revocation request and the patent owner shall both have the right to bring the Competent Authority's decision to the Competent Court within three months of the contested decision. In that event, the Competent Court shall decide on the case in accordance with its standard rules of procedure.

Article 140

Challenges to entitlement

1. Any interested party may, at any time, bring an action at the Competent Court on grounds that the applicant or the owner is not entitled under Articles 104 to 106.

2. The interested party referred to in the preceding paragraph shall carry the burden of proof.

3. The Competent Court shall treat actions brought under this Article in accordance with its standard rules of procedure and applicable evidentiary standards.

4. If the Competent Court finds that the applicant or the owner is not entitled under Articles 104 to 106, it shall render the application ineffective or revoke the patent, as appropriate. The revocation shall render the patent null and void.

5. By way of exception to the preceding paragraph, if the interested party that brought the action claims to be legally entitled to the right to a patent under Articles 104 to 106, it may request the Competent Court to transfer the application or the patent in its favor, instead of the consequences under paragraph 4. Where the entitlement of the interested party that brought the action is only partial, the transfer may also be partial.

6. Once the decision of the Competent Court has become final, it shall notify the Competent Authority, which shall duly record the decision in the Registry and publish a corresponding notice in the Industrial Property Gazette.

Article 141

Lapse

1. A patent shall lapse upon the expiration of the term of protection provided for in Article 121 or due to a failure to duly pay any official fees by the prescribed deadline.

2. In the event a patent is to lapse due to a failure to duly pay any official fees by the prescribed deadline, the owner shall enjoy a grace period of six months for the payment of the relevant fees, including a surcharge.

3. Once a patent has lapsed due to non-payment of fees, despite the grace period provided for in the preceding paragraph, the applicant shall nonetheless have the right to file a request for the restoration of the lapsed patent, within six months from the expiry of the grace period, subject to the payment of the applicable fee, including a restoration fee, on the condition that the owner can demonstrate the lapse was unintentional.

4. A patent which has lapsed, as well as any restorations thereof, shall be so recorded in the Register, and a notice shall be accordingly published to that effect in the Industrial Property Gazette.

Article 142

Abandonment of patent rights

1. The applicant, or the owner, may at any time voluntarily abandon the application, or the patent, by filing a written declaration with the Competent Authority to that effect. In the event there is more than one owner, the consent of all co-owners must be demonstrated.

2. If a patent is subject to an administrative or judicial sanction, is held as a security, forms part of an ongoing judicial proceeding, or is under an exclusive license, it cannot be abandoned without the prior approval of the concerned parties.

3. Abandonment of a patent shall only take effect in relation to third parties after the date of its registration with the Competent Authority.

CHAPTER VI

SEMICONDUCTOR PRODUCT TOPOGRAPHIES

Section I

Scope of Subject Matter

Article 143

Definitions

For the purposes of this Chapter:

- a) 'right holder' shall mean the natural or legal person duly entitled to the exclusive rights pertaining to a semiconductor product topography under this Chapter;
- b) a 'semiconductor product' shall mean the final or intermediate form of any product that consists of a body of material that includes a layer of semiconductor material; and has one or more layers composed of conducting, insulating or semiconducting material arranged in accordance with a predetermined three-dimensional model; and is intended to perform an electronic function either alone or together with other functions;
- c) a 'semiconductor product topography' or 'topography' shall mean a set of related images, however fixed or encoded, that represent the three-dimensional layout of the layers of which a semiconductor product is composed; and in which series, each image has the layout or part of the layout of a surface of the same product in any stage of its manufacture.

Article 144

Requirement of originality

1. A semiconductor product topography shall be accorded protection under this Chapter if it is original in the sense that it is the result of its creator's own intellectual effort and is not commonplace among creators of topographies and manufacturers of semiconductor products at the time of its creation.
2. Topographies which consist of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, meets the conditions stipulated in the preceding paragraph.

Article 145

Legal protection and entitlement

1. Semiconductor product topography protection shall come into existence in Timor-Leste when the topography complying with the originality requirement stipulated in Article 144 is first commercially exploited anywhere in the world.
2. Semiconductor product topography protection shall not extend to any concept, process, system, technique or encoded information embodied in the topography other than the topography itself.

3. The creator of the topography shall be the right holder. Where a semiconductor product topography is created in the course of the creator's employment, the creator's employer shall be the right holder, unless the employment contract provides to the contrary. Where a semiconductor product topography is created under a contract other than an employment contract, the party who commissioned the topography shall be the right holder, unless the contract provides to the contrary. Where a semiconductor product topography is created jointly by multiple natural or legal persons, all persons involved in its creation shall be jointly deemed as right holders.

Section II

Protection Term and Exclusive Rights

Article 146

Duration

1. The duration of protection of a semiconductor product topography shall be 10 years from the date of its first commercial exploitation anywhere in the world.
2. Notwithstanding the preceding paragraph, protection shall lapse 15 years after the creation of the semiconductor product topography.

Article 147

Rights conferred by topography protection

1. Semiconductor product topography protection shall confer on its right holder the right to authorize or prohibit any of the following acts:
 - a) reproducing, whether by incorporation in a semiconductor product or otherwise, a protected topography, whether in its entirety or in part, except where reproducing any part that does not comply with the requirement of originality referred to in Article 144;
 - b) importing, selling or otherwise distributing for commercial purposes a protected topography, a semiconductor product in which a protected topography is incorporated or an article incorporating such a semiconductor product only insofar as it continues to contain an unlawfully reproduced topography.
2. Rights in respect of a semiconductor product apply whether or not the semiconductor product is incorporated in an article.

Article 148

Assignment, licensing and transfer of rights

1. Right holders under this Chapter or their successors shall have the right to assign or license their rights, or transfer such rights by succession.

2. Where more than one person is a right holder, any transfer of rights shall require the consent of the other right holders.
3. Transfers of rights pertaining to a protected semiconductor product topography must be in writing.
4. A license shall be considered nonexclusive unless otherwise specified.
5. An exclusive license shall prevent the right holder from exercising the licensed rights or granting other licenses for the rights that are the subject of the license, for as long as the license is in force.

Article 149

Limitations on the rights conferred by registration

1. The following acts shall not require the authorization of the right holder:
 - a) reproduction for private noncommercial purposes;
 - b) reproduction for the sole purpose of analysis, evaluation, research or teaching;
2. Where, on the basis of evaluation or analysis of a protected semiconductor product topography, a third party creates a new topography which complies with the requirement of originality stipulated in Article 144, that third party may incorporate the latter topography in a semiconductor product or commercially exploit it without being regarded as infringing the protection accorded to the earlier topography.
3. importing, selling or otherwise commercially distributing a semiconductor product incorporating an unlawfully reproduced topography or any article incorporating such a semiconductor product shall not be deemed unlawful if the person performing or ordering such acts did not know and had no reasonable ground to know, when acquiring the relevant semiconductor product or article, that it incorporated an unlawfully reproduced topography. In such a case, after the time that such person has received sufficient notice that the topography was unlawfully reproduced, that person may perform any of the acts with respect to the stock on hand or ordered before such time, but shall be liable to pay to the right holder a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated license in respect of such a topography.
4. The right holder of a protected semiconductor product topography may not exercise his rights in respect of an identical original topography that was independently created by a third party.
5. The limitations specified in this Article shall be construed and applied in a manner that does not unreasonably conflict with the normal exploitation of protected topographies and does not unreasonably prejudice the legitimate interests of right holders, taking account of the legitimate interests of third parties.

Article 150
Exhaustion of rights

The act of importing, selling or otherwise distributing for commercial purposes a protected topography or a semiconductor product in which a protected topography is incorporated shall be permitted, without requiring the right holder's authorization, once the said topography or the semiconductor product has been put on the market by, or with the consent of, the right holder anywhere in the world.

Article 151
Pre-existing topographies

Semiconductor product topography protection and the exclusive rights accorded to right holders under this Chapter shall not apply to any topography that exists at the time this law enters into force, provided that this provision does not affect any protection that such topography may, at that time, enjoy in the territory of Timor-Leste by virtue of international obligations other than those resulting from this law.

Section III
Conditions on Use

Article 152
Encumbrances

As an object of property, a semiconductor product topography may be subject to liens, judicially ordered transfers or similar procedures in order to satisfy legal or contractual obligations of the right holder, in accordance with the terms of applicable Timorese law.

Article 153
Compulsory license

The conditions set out in Articles 130 to 137 shall apply *mutatis mutandis* to the compulsory licensing of a semiconductor product topography or of its use by or for the Government without the authorization of the right holder.

Article 154
Challenges to semiconductor product topography rights

1. In the course of judicial enforcement of the rights accorded under this Chapter, a defendant has the right to challenge the subsistence of the semiconductor product

topography rights invoked by the right holder or to bring into question the right holder's entitlement to protection. Such challenges must specify the substantive grounds on which the claim is based.

2. In the event a defendant raises a challenge in accordance with the preceding paragraph, the burden of proof shall lie with the right holder.

3. Any dispute or claim relating to the rights accorded under this Chapter shall be heard and decided by the Competent Court. In the course of its deliberations, the Competent Court may request the expert opinion of the Competent Authority, in accordance with its standard rules of procedure.

4. The Competent Authority shall be permitted to receive assistance from external parties or use documents and materials originating from abroad, in order to fulfil any requests by the Competent Court.

CHAPTER VII TRADE SECRETS

Article 155 Subject matter

Information which meets all of the following requirements shall constitute a trade secret:

- a) it is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
- b) it has commercial value because it is secret; and
- c) it has been subject to reasonable measures under the circumstances, by the person lawfully in control of the information, to keep it secret.

Article 156 Unlawful acquisition, use and disclosure of trade secrets

1. It is unlawful to acquire, use or disclose a trade secret in a manner contrary to honest commercial practices and without the consent of the person lawfully in control of such trade secret.

2. On the basis of the preceding paragraph, any natural or legal person who lawfully controls a trade secret has the right to prevent, or obtain redress for, the unlawful acquisition, use or disclosure of their trade secret.

3. For the purposes of this Article, actions contrary to honest commercial practices shall include, but are not limited to theft, bribery, misrepresentation or espionage through electronic or other means resulting in the following:

- a) unauthorized access, appropriation or copying of documents, objects, materials, substances or electronic files which contain a trade secret or from which a trade secret is deducible;
- b) violation of or inducement to violate a confidentiality agreement or any other duty not to disclose trade secrets;
- c) violation of or inducement to violate a contractual duty or any other duty to limit the use of trade secrets; and d) the acquisition of trade secrets by third parties who knew, or were grossly negligent in failing to know, that such practices as those stipulated in this paragraph were involved in the acquisition.

4. It is an unlawful use of a trade secret to produce, sell or offer to sell goods or to import, export or store goods for those purposes where the person performing such acts knows or has reason to know that the goods implicate the infringement of rights in trade secrets protected under this Chapter.

Article 157

Lawful acquisition, use or disclosure of trade secrets

1. The acquisition, use or disclosure of a trade secret is lawful when the information constituting the trade secret is obtained by any of the following means:

- a) independent discovery or creation;
- b) observation, analysis, study, evaluation, disassembly or testing of a product or object that has been made available to the public or that is lawfully in the possession of a person who is not subject to any legally valid duty not to use or disclose the trade secret;
- c) agreement or consent of the person who lawfully controls the trade secret; and d) any other practice that, in the circumstances under which it occurs, is in conformity with honest commercial practices.

2. The acquisition, use or disclosure of a trade secret is lawful to the extent such is required or allowed by law.

Article 158

Protection of trade secrets submitted to governmental authorities

1. Public authorities, which are duly designated and so empowered under applicable Timorese law, may require the submission of undisclosed test or other data which constitute a trade secret within the meaning of this Chapter, as a condition of approving the marketing of pharmaceutical or agricultural chemical products utilizing new chemical entities.

2. For the purposes of the preceding paragraph, the public authority receiving such data shall protect such data against disclosure or unfair commercial use.

3. The obligation stipulated in the preceding paragraph shall apply except where necessary to protect the public or unless the authority takes measures to ensure that the data are protected against unfair commercial use.

Article 159

Fundamental freedoms and protection of public interest

1. Nothing in this Chapter shall be construed to affect or limit the exercise of fundamental freedoms guaranteed under the Constitution of the Democratic Republic of Timor-Leste.

2. Use or disclosure of a trade secret does not constitute an infringement if such use or disclosure was for the purpose of protecting general public interest by revealing misconduct or illegal activity.

CHAPTER VIII

ADMINISTRATIVE PROCEDURES

Article 160

Administration of industrial property rights

160.1 The Competent Authority shall have the administrative responsibility for the implementation of this Code.

160.2 The organizational structure and functioning of the Competent Authority, including its financial and budgetary system, shall be determined by Decree Law.

Article 161

Representation

161.1 An applicant, owner or an interested party, who is established or domiciled in Timor-Leste, may directly represent themselves before the Competent Authority, or appoint a legal representative to act on their behalf, for the purposes of any procedure prescribed under this Code.

161.2 If an applicant, owner or interested party is neither established nor domiciled in Timor-Leste, they shall appoint a legal representative, who is established or domiciled in Timor-Leste, for the purposes of any procedure before the Competent Authority.

161.3 Minimum qualifications for legal representatives, as well as other applicable conditions, may be set out in a Regulation.

161.4 Legal representatives must provide the Competent Authority with proof of empowerment, or a power of attorney, from the applicant, owner or the interested party whom they represent.

Article 162

Industrial Property Gazette

- 162.1 An Industrial Property Gazette shall be edited and published regularly under the coordination and responsibility of the Competent Authority.
- 162.2 The format, frequency and contents of the publication shall be in accordance with this Code and applicable Regulations.
- 162.3 The Industrial Property Gazette shall be distributed to the relevant services and institutions, as appropriate.

Article 163

Effect of Publication in the Industrial Property Gazette

- 163.1 All content published in the Industrial Property Gazette shall be deemed to have been communicated to the general public.
- 163.2 Except where otherwise specified in this Code, publication in the Industrial Property Gazette shall serve as direct notification to the parties in cases or any other interested parties and shall mark the beginning of the time limits set forth in this Code.

Article 164

Extracts from the Registry

The Competent Authority shall provide certified or uncertified extracts from the Registry on request and on payment of a fee, as prescribed in the Regulations.

Article 165

Communication

- 165.1 Communication with the Competent Authority shall be made in the manner prescribed in the applicable Regulations.
- 165.2 An applicant, owner or an interested party as well as a legal representative, which takes part in any procedure prescribed under this Code, shall provide the Competent Authority with accurate and up-to-date contact details, for the Competent Authority to use in its official communication and correspondence.

Article 166
Changes to the information related to the applicant or the owner

- 166.1 At the request of the applicant or the owner of an industrial property right, the Competent Authority shall record in the Registry any change to the information related to the applicant or the owner.
- 166.2 Information referred to in the preceding Subarticle includes name, address and contact details of the applicant or the owner, information related to appointed legal representative, and any other information, as may be defined in applicable Regulations.
- 166.3 The format and procedures in relation to requests under Subarticle 166.1 shall comply with the requirements prescribed in the Regulations.

Article 167
Judicial Review

- 167.1 Decisions taken by the Competent Authority shall be open to judicial review at the Competent Court.
- 167.2 Unless otherwise specified in this Code, requests for review of decisions taken by the Competent Authority shall be lodged within two months from the date of notification or publication of the relevant decision in the Industrial Property Gazette, whichever is later.

Article 168
Time Limits

- 168.1 The time limits stipulated in this Code shall be continuous.
- 168.2 Time limits not expressly stipulated in this Code may be defined in the applicable Regulations.
- 168.3 Unless otherwise provided in this Code, the Competent Authority may extend a time limit it had fixed for an action under Chapters II, III, IV and V, in respect of an application for an industrial property right, provided that:
- a) a request to that effect is made to the Competent Authority in accordance with the requirements prescribed in the applicable Regulations; and
 - b) the request is filed prior to the expiration of the time limit.

Article 169
Restoration of Rights

169.1 Unless otherwise provided in this Code, where an applicant or the owner of an industrial property right has failed to comply with a time limit for an action in a procedure before the Competent Authority, and that failure has the direct consequence of causing a loss of rights with respect to the application or industrial property right, the Competent Authority shall restore the rights of the applicant or owner with respect to the application or industrial property right concerned, provided that:

- a) a request to that effect is made to the Competent Authority in accordance with the requirements prescribed in the Regulations;
- b) the request is filed, and all of the respective requirements are complied with, within the time limit prescribed in the Regulations;
- c) the request states the reasons for the failure to comply with the time limit; and
- d) the Competent Authority finds that the failure to comply with the time limit occurred in spite of all due care required by the circumstances having been taken.

169.2 This Article shall not apply to the time limit for filing a request for restoration under paragraph 169.1(a).

CHAPTER IX
ENFORCEMENT

Article 170
Definition

For the purposes of this Chapter, “Right holder” shall mean the natural person or legal entity which is to be regarded as the owner of the particular industrial property right or the holder of the trade secret, its successors in title, or its licensee duly authorized to bring an action in accordance with Article 173, as well as an individual, a corporation or an association authorized by any of the aforementioned persons to protect its rights.

Article 171
Infringements and Offenses

1. “Infringement” for the purposes of this Chapter shall be understood as-
 - a) any unauthorized act that is thereby contrary to the exclusive right conferred by the industrial property right in question pursuant to any of Articles 30, 60, 86, 122 or 147 of the Code; or
 - b) the unlawful acquisition, use or disclosure of a trade secret referred to in Article 156 of the Code.
2. “Trademark counterfeiting” shall be understood as the production or use of any goods, including packaging, bearing a sign which is identical to a registered trademark or which

cannot be distinguished in its essential aspects from such a trademark, without the consent of the owner of the trademark, and which thereby infringes the rights of the latter under Chapter II of this Code.

3. Any person who:

- a) counterfeits a trademark as defined in paragraph 2;
- b) applies a counterfeit sign to goods or uses it in connection with services;
- c) possesses any materials or implements, the predominant use of which is likely to be to counterfeit a trademark or apply a counterfeit signs to goods;
- d) deals in counterfeit goods; or
- e) imports into or exports from the Democratic Republic of Timor-Leste counterfeit goods,

willfully and on a commercial scale, and without the consent of the owner of the trademark, is guilty of an offense.

4. Acts done on a commercial scale within the meaning of paragraph 3 are to be understood as acts that have the goal of obtaining a direct or indirect economic or commercial advantage. It does not cover acts carried out by end consumers acting in good faith.

Article 172

Application

- 1. Enforcement measures as specified in this Chapter shall be available to permit effective action against any infringement or offense defined in Article 171.
- 2. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to safeguard against their abuse.
- 3. The provisions of this Chapter which refer to proceedings before, and measures ordered by, the Competent Court shall be without prejudice to their application, where appropriate, by the Court which has jurisdiction to decide on appeal.

Article 173

Right to bring an action and right of intervention

- 1. The civil action for infringement may be brought, and the request for provisional measures may be submitted [and the criminal complaint filed], by the owner of the industrial property right or the holder of the trade secret or by the licensee, unless otherwise stipulated in the license agreement and without prejudice to paragraph 2.
- 2. The beneficiary of an exclusive right may bring an action if, after formal notice, the owner does not exercise this right within [a reasonable time].
- 3. Any party to a license agreement is entitled to intervene in the proceedings for infringement

brought by another party in order to obtain compensation for the prejudice suffered by him or her.

4. The owner of the registration of a collective mark or the owner of a certification mark may bring an action or request provisional measures [or file a criminal complaint] in accordance with paragraph 1 on behalf of the persons entitled to use the mark. .
5. A person entitled to use a collective mark or a certification mark may bring an action or request provisional measures [or file a criminal complaint] in accordance with paragraph 1 only with the consent of the owner of the registration of a collective mark or of the owner of a certification mark, unless the Regulations governing the use of that trademark provide otherwise.
6. Any person entitled to use a collective mark or a certification mark is entitled to intervene in the proceedings for infringement brought by the owner of the registration of a collective mark or the owner of a certification mark in order to obtain compensation for the prejudice suffered by him or her.
7. Any person authorized to use a geographical indication registered in accordance with Chapter III of the Code or the competent entity within the meaning of Article 49.2(b) may bring an action or request provisional measures in accordance with paragraph 1.
8. Any person mentioned in paragraph 7 shall be entitled to intervene in the proceedings for infringement of the rights conferred by the registration of a geographical indication brought by another party.

Article 174 **Statute of limitations**

Actions relating to an infringement shall be barred after five years from the day on which the right holder knew or should have known the last fact enabling him or her to exercise his or her right of action.

Article 175 **Pleadings and evidence**

1. Judicial decisions on the merits of infringement claims shall be based only on evidence in respect of which interested parties were offered the opportunity to be heard.
2. Parties against whom infringement claims are made shall have the right to written notice which is timely and contains sufficient detail, including the basis of the claims.
3. Parties to infringement actions shall be entitled to substantiate their claims and defenses and to present all relevant evidence. All such parties shall be allowed to be represented by

independent legal counsel at their own expense.

4. Where a party has presented reasonably available evidence sufficient to support its claims and has identified further relevant evidence which lies in the control of the opposing party, the Competent Court may order that this evidence be produced by the opposing party, subject in appropriate cases to the procedures referenced in Article 178.
5. The present provision does not prejudice in any way the applicability of the Code of Civil Procedure or the Code of Criminal Procedure, as the case may be.

Article 176 **Confidential information**

Without prejudice to Article 186, the Competent Court adjudicating infringement actions shall permit parties to identify confidential information, such as manufacturing and business secrets, involved in such actions and shall establish procedures to ensure the protection of such confidential information.

Article 177 **Burden of proof in special cases**

1. In civil proceedings involving a claim of infringement of rights in a patented process for obtaining a product, any identical product produced without the consent of the patent holder shall be presumed to have been obtained by the patented process in the absence of proof to the contrary:
 - a) if the product obtained by the patented process is new; or
 - b) if there is a substantial likelihood that the identical product was made by the process and the patent holder has been unable through reasonable efforts to determine the process actually used.
2. In the case described in paragraph 1, the defendant shall have the burden of proving that the process to obtain an identical product is different from the patented process.
3. In implementing the requirements of the preceding paragraph, the legitimate interests of defendants in protecting confidential information, such as manufacturing and business secrets, shall be taken into account.

Article 178 **Provisional measures**

1. The Competent Court may order provisional measures at the request of the right holder:
 - a) to preserve relevant evidence in regard to an alleged infringement; and/or
 - b) to prevent an infringement of any industrial property right or trade secrets, and, in particular, to prevent the entry into the channels of commerce of goods, including imported goods immediately after customs clearance.
2. The competent Court may adopt provisional measures *inaudita altera parte* where appropriate, in particular where any delay is likely to cause irreparable harm to a right holder or where there is a demonstrable risk of evidence being destroyed.
3. Where provisional measures have been adopted *inaudita altera parte*, the parties affected shall be given notice without delay at the time of the beginning of the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the respondent filed within [fourteen calendar days] after the notification of the measures, with a view to deciding, within [fourteen calendar days] following such request, whether these measures shall be modified, cancelled or confirmed.
4. The Competent Court, ruling on a request for provisional measures within the meaning of paragraph 1, under a), shall consider:
 - a) whether the industrial property right whose protection is claimed is, to all appearances valid, or, in the case of a trade secret, is protectable as such; and
 - b) whether there are indications that the industrial property right at stake has been infringed or, in the case of a trade secret, that said trade secret has been unlawfully acquired, used or disclosed, or that there is a threat of such an infringement.
5. The Competent Court, ruling on a request for provisional measures within the meaning of paragraph 1, under b), shall consider-
 - a) whether the industrial property right whose protection is claimed is, to all appearances, valid, or, in the case of a trade secret, is protectable as such;
 - b) whether the infringement of the industrial property right at stake cannot reasonably be disputed or whether the unlawful acquisition, use or disclosure of a trade secret cannot reasonably be disputed; and
 - c) whether, after weighing the interests involved, including the public interest, the facts and, where applicable, the material on which the applicant relies are sufficient to reasonably justify the seizure for the protection of the industrial property right or the trade secret invoked.

The order shall expressly state the reasons for the necessity of the authorized seizure in the light of the conditions set out in this paragraph.

6. In addition to paragraph 4 or 5, the Competent Court may require the requesting party to deposit a suitable bond or equivalent security to ensure possible compensation for any

damage suffered by the respondent, in accordance with paragraph 13. In that case, the copy of the order shall be issued only upon proof of the deposit.

7. In the case of provisional measures requested in order to preserve relevant evidence, within the meaning of paragraph 1, under a), the requesting party may, with the authorization of the Competent Court, have one or more experts appointed by the Competent Court to carry out an inspection, in any place, to describe all objects, elements, documents or processes likely to establish the alleged infringement as well as the origin, destination and extent of said alleged infringement. The order authorizing such description shall specify the conditions to which the description is subject, in particular with a view to ensuring the protection of confidential information, and the time limit within which the appointed expert shall file and send his report and, where applicable, the persons authorized to examine it. Except in special circumstances expressly mentioned in the order justifying a longer period, this period shall not exceed [two months] from the date of service of the order.
8. In the framework of provisional measures within the meaning of paragraph 1, under a) and para. 7, the Competent Court may authorize the expert to take all measures useful for the accomplishment of his mission and within the limits of the latter, and in particular to take extracts, copies, photocopies, photographs, electronic copies and audiovisual recordings, as well as obtaining samples of the goods suspected of infringing the industrial property right whose protection is invoked and of the materials and instruments used to produce and/or distribute these goods, as well as the documents relating thereto.
9. The requesting party may not be present or represented at the description under para. 7 unless expressly authorized by the Competent Court. In its order, the Competent Court shall state the reasons for such authorization specifically in relation to each person so authorized, taking into account the circumstances of the case, including the protection of confidential information. The Competent Court may make the right to be present at the premises subject to such conditions as the Competent Court may determine.
10. Without prejudice to the right to description of the requesting party in accordance with para. 7, the expert shall ensure, during his or her execution of the description and the redaction of the report, the safeguard of the legitimate interests of the alleged infringer and, when the holder of the objects described is different from the alleged infringer, of the holder of the objects described, in particular as regards the protection of confidential information.
11. The report established by the expert shall be filed with the registry of the Competent Court within the time limit fixed by the order or, failing that, by para. 7 above. A copy of the report shall be sent immediately by the expert, by registered mail, to the requesting party, the alleged infringer and, where the holder of the goods described is different from the alleged infringer, to the holder of the objects described. This report, as well as all documents, samples or elements of information collected during the description operations, are confidential and may only be disclosed or used by the requesting party or his/her successor in title in the context of proceedings on the merits or in summary proceedings.
12. Without prejudice to paragraph 3 of this Article, provisional measures shall, upon request by the respondent, be cancelled if the requesting party has not initiated proceedings leading to a

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decision on the merits of the case within [31 calendar] days following the execution of the measures. In the case of provisional measures ordered within the framework of para. 1, under b), and 5, the time limit of [31 calendar] days runs from the date the report is communicated to the requesting party in accordance with para 11.

13. In the case of provisional measures requested by the legitimate holder of a trade secret, such provisional measures shall also be cancelled, upon request by the respondent, in the case the information deemed to constitute a trade secret no longer meets the requirements of Article 155 of the Code for reasons that cannot be attributed to the respondent.
14. Where the provisional measures are cancelled, or where they expire due to any act or omission by the requesting party, or where it is subsequently found that there has been no infringement or threat of infringement of an industrial property right or no unlawful acquisition, use or disclosure of a trade secret, the Competent Court may order the requesting party, upon request of the respondent, to compensate the respondent for any injury caused by these measures.
15. Provisional measures shall be available against any intermediary whose services are allegedly being used by third parties to infringe industrial property rights or to unlawfully acquire, use or disclose trade secrets.
16. [The provisional measures provided for in this Article shall take precedence over the relevant provisions of the Code of Civil Procedure. The latter shall apply in a subsidiary manner, only insofar as they supplement and are not contrary to the provisions of this Article.]

Article 179

Non-use as a defense in trademark infringement proceedings

1. The holder of a trademark is entitled to request the prohibition of the use of a sign alleged to be infringing only to the extent that the registration of the trademark is not liable to be cancelled pursuant to Article 40 of this Code at the date the action for infringement is brought.
2. If the defendant so requests, the holder of the trademark must furnish proof-
 - a) that during the five-year period preceding the date the action for infringement is brought, the trademark has been put in genuine use in Timor Leste by or with the consent of the trademark owner in relation to the goods and services for which it is registered and which are cited as justification for the action, or
 - b) that there are proper reasons for non-use.

Article 180

Damages

1. Whoever, with intent or mere fault, unlawfully infringes the industrial property right or trade

secret of another party shall be obliged to compensate the right holder for the damages resulting from the infringement.

2. In determining the amount of compensation for losses and damages, the Competent Court shall take into consideration the profit made by the infringer and the actual damage and loss of profit suffered by the right holder, and shall take into consideration the costs incurred with the protection, investigation and cessation of the conduct harmful to his or her right.
3. For the calculation of the compensation due to the right holder, the importance of the revenue resulting from the illicit conduct of the infringer shall be taken into consideration.
4. The Competent Court shall also take into consideration the moral damage caused by the conduct of the infringer.
5. If the determination of the amount of the damage actually suffered by the right holder in accordance with the preceding paragraphs does not seem appropriate, and at the request of the right holder, the Competent Court may, alternatively, establish a fixed amount by resorting to equity. This amount shall be based, at a minimum, on the remuneration that would have been received by the right holder if the infringer had requested permission to use the industrial property rights or trade secrets in question and the costs incurred by the protection of the industrial property right or trade secret, as well as the investigation and cessation of the infringing conduct.
6. When, in relation to the right holder, the conduct of the infringer constitutes a repeated practice or proves to be especially burdensome, the Competent Court may determine the compensation that is due to the right holder with recourse to the cumulation of all or some of the aspects provided for in paragraphs 2 to 5.
7. In any event, the Competent Court shall fix a reasonable amount intended to cover the costs, which have been duly proven to have been incurred by the right holder with the investigation and cessation of the harmful conduct

Article 181

Injunctions

1. The Competent Court may, on the application of the right holder and after the final determination has been made as to the question of infringement in civil proceedings, issue an injunction against the defendant by ordering the defendant to cease or refrain from infringing the particular industrial property right or to cease or refrain from using or disclosing the trade secret, as the case may be.
2. The injunction, where appropriate, may be directed against a third party over whom [the Competent Court may exercise jurisdiction, to prevent imported infringing goods from entering the channels of commerce immediately after customs clearance.
3. No injunction shall be issued against –

- a) a person who acquired or ordered an infringing article prior to knowing or having reasonable grounds to know that such dealing would entail [amount to] the infringement of an industrial property right ;
- b) [the State [Government] or any person authorized by the State for the use of the industrial property right];
- c) a person who at the time of use or disclosure of a trade secret neither knew nor ought, under the circumstances, to have known that the trade secret was obtained from another person who was using or disclosing the trade secret unlawfully, when the execution of the injunction would cause that person disproportionate harm, provided that a pecuniary compensation be paid to the right holder and that such payment of a pecuniary compensation appears reasonably satisfactory. That pecuniary compensation shall not exceed the amount of royalties or fees which would have been due, had that person requested authorization to use the trade secret in question, for the period of time for which use of the trade secret could have been prohibited.

Article 182
Additional corrective measure

1. The Competent Court may, on the application of the right holder after the final determination of the question of infringement in civil proceedings, order that –
 - a) the goods found to be infringing be destroyed, or be disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the right holder; and
 - b) materials or implements the predominant use of which has been the creation of the infringing goods be disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringement,without compensation of any kind for the infringer.
2. In the case of unlawful acquisition, use or disclosure of a trade secret:
 - a) paragraph 1 shall be understood as applying to the destruction of all or part of any document, object, material, substance or electronic file containing or embodying the trade secret or, where appropriate, the delivery up to the right holder of all or part of those documents, objects, materials, substances or electronic files;
 - b) the destruction or disposal shall not be ordered by the Competent Court in the case referred to in Article 181, paragraph 3, under c).
- c) In exercising its discretion in terms of paragraph 1, the Competent Court shall take into account –
 - a) the deterrent effect of the order;
 - b) that the disposal or destruction must be proportionate to the seriousness of the infringement; ;
 - c) the legitimate interests of third parties;
 - d) that, in respect of counterfeit trademark goods, the simple removal of the trademark

- unlawfully affixed shall not be sufficient, other than in exceptional and duly motivated cases, to permit release of the goods into the channels of commerce; and
- e) the effect on the environment of the manner of disposal or destruction.

Article 183

Right of information

The Competent Court may, unless it would be out of proportion to the seriousness of the infringement, order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of infringing goods or services and of their channels of distribution.

Article 184

Abuse of enforcement procedures

1. Where a party has caused enforcement measures to be taken through an abuse of enforcement procedures, the Competent Court may order that party to compensate the party wrongfully enjoined or restrained for the prejudice suffered because of such abuse.
2. In cases of abuse of enforcement procedures, the Competent Court may also order the plaintiff to pay the defendant's expenses which may include appropriate attorney's fees.

Article 185

Criminal penalties

1. Upon conviction for an offense within the meaning of Article 171 of the Code, the Competent Court may order—
 - a) imprisonment of up to three years and/or a fine [up to [...]]; and
 - b) that the trademark counterfeit goods as well as any materials the predominant use of which has been in the commission of the offense, be seized and forfeited for the purpose of destruction or disposal outside the channels of commerce in accordance with Article 182.
2. In exercising its discretion in terms of para. 1, under b), the Competent Court shall take into account—
 - a) the deterrent effect of the order;
 - b) that the disposal or destruction must be proportionate to the seriousness of the infringement; ;
 - c) the legitimate interests of third parties;
 - d) that, in respect of counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional and duly motivated

- cases, to permit release of the goods into the channels of commerce; and
- e) the effect on the environment of the manner of disposal or destruction.

Article 186

Preservation of confidentiality of trade secrets in judicial proceedings

1. The parties, their lawyers or other representatives, court officials, witnesses, experts and any other person participating in judicial proceedings or who has access to documents which form part of those judicial proceedings, are not permitted to use or disclose any trade secret or alleged trade secret which the seized Court has, in response to a duly reasoned application by an interested party, identified as confidential and of which they have become aware as a result of such participation or access.
2. The obligation of confidentiality shall remain in force after the end of the judicial proceedings, except where it is established, by a final and unappealable decision _
 - a) that the alleged trade secret does not meet the requirements laid down in Article 155 of the Code; or
 - b) that the information in question has become generally known among or readily accessible to persons within the circles that normally deal with that kind of information.
3. At the duly substantiated request of one of the parties or on the initiative of the seized Court and always taking into account the need to safeguard the right to an effective remedy and to a fair trial, as well as the interests of the parties or third parties, specific and proportionate measures may be taken to preserve the confidentiality of any trade secret or alleged trade secret used or mentioned in the course of legal proceedings, including the following:
 - a) limitation of access to documents containing trade secrets or alleged trade secrets which have been disclosed by the parties or third parties, in whole or in part, to a limited number of persons;
 - b) limitation to a limited number of persons of the access to hearings, as well as to the records and transcripts thereof, where there is a possibility of disclosure of trade secrets or alleged trade secrets;
 - c) making available to persons not included in the limited number of persons referred to in the preceding subparagraphs of a non-confidential version of the Court decisions from which passages containing trade secrets have been removed or are concealed.
4. The number of persons referred to in subparagraphs (a) and (b) of the preceding paragraph shall not exceed the number necessary to ensure compliance with the right of the parties to the judicial proceedings to an effective remedy and to a fair trial, and shall include at least one natural person from each party and the respective lawyers or other representatives of those parties to the judicial proceedings.

CHAPTER X
TRANSITIONAL AND OTHER PROVISIONS

Article 187
Transitional Period

1. A transitional period of [XX] months shall be observed following the entry into force of this Code. The transitional period is intended to allow the Competent Authority sufficient time to put in place the necessary operational measures for this Code's effective implementation.
2. During the transitional period, the respective Chapters of this Code shall not take effect, unless the Competent Minister, upon recommendation by the Competent Authority, issues an ordinance [*Diploma Ministerial*], giving effect to those Chapters for which the necessary operational measures have been duly put in place.
3. Such ordinances shall be published in the Official Journal of the Democratic Republic of Timor-Leste and shall clearly specify the date on which the relevant Chapter is to take full legal effect.
4. In the event the transitional period expires without all Chapters having been given effect through an ordinance, then the remaining Chapters shall take full effect by default.

Article 188
Reporting and Revision

1. The Competent Authority shall submit an annual report to the Competent Minister on the implementation of this Code. This report shall provide information on the Competent Authority's activities over the reporting period, including information on operational measures taken to ensure the effective exercise of the rights, duties and entitlements enshrined in this Code.
2. This Code shall be reviewed every five years from its entry into force. This review shall be carried out by the Competent Authority and shall include an assessment, looking at the overall functioning of the national industrial property framework, evaluating the continued fitness for purpose of this Code, or its individual Chapters, and where necessary, making recommendations for its amendment.