

DECREE-LAW No. 14/2017

April 5th

CUSTOMS CODE

As a pillar of the economic policy for security and heritage defence, Customs has a decisive role to play in the economic development of the country. Therefore, there is a need to provide them, in addition to technical means and human resources, with legal instruments that regulate all their activities from a multilateral perspective, starting from the delimitation of territorial jurisdiction to procedural aspects in the customs treatment of goods, to the rights and duties of economic operators, the powers of customs officials, as well as matters related to foreign trade.

Timor-Leste, like other countries, is subject to the constant changes that international trade relations impose, through the proliferation of special legislation regulating the flow of goods in the field of import and export with other countries, as well as successive and unique changes that have been made to customs legislation, especially through the various legal instruments that have been published for years, although justified in the particular historical context in which they occurred. This situation has given rise to a legal old-fashioned, disorderly and non-operational "building", cumulatively hampering the day-to-day management of customs bodies and services and the economic activity itself.

From this point of view, it was understood that it would be decisive for the current Fiscal Reform to carry out a systemic review of these legislative texts with the objective of preparing a document that is current and appropriate to the country's reality, harmoniously combining sector regulations with the concern of doing so with the right balance respecting the traditional and international concepts of customs terminology.

The Customs Code of Timor-Leste, a structuring document for the regulation of customs activity, was approved by Decree-Law no. 11/2004 of May 11, never having undergone any revision, despite the publication of several diplomas related to the materials which had been regulated in it.

It was therefore imperative, in the wake of the need to consolidate the public administration on the one hand, and the requirements of international trade, on the other hand, that the main regulatory diploma governing customs procedures be revisited so that it could be, to the right extent, adequate to the current legal and economic reality of Timor-Leste.

It was therefore urgent to order and harmonize properly the various existing legislation, in a collection built on solid and resilient pillars, and because of the nature and scope of the customs law, there will always be matters of autonomous regulation, a fact that is not alien to the international obligations to which Timor-Leste is bound to, taking into account the instruments of international law signed by the country.

In another perspective, the application of international standards regarding the facilitation of international trade - as applied by international organizations to which Timor-Leste has already acceded to, in particular, the World Customs Organization - has recommended some solutions that could be useful in this area for a new legal system.

In addition, the existing legislative framework induces a set of difficulties that, besides those mentioned, also detract from the public service.

However, the experience accumulated over the last 12 years of application of the Code in force and of the diplomas in the meantime drawn upon matters governed by it cannot be ignored, rather, all the contributions it can provide to the enrichment of its revision must be taken from it, illuminating, through lessons learned, meanwhile acquired, the path of the new diploma which is aspired to be modern and functional but always based on rigour, justice and transparency.

In essence, this Code is the result of a work to update and adapt existing regulations, having been incorporated some provisions contained in separate regulations, although in certain cases some provisions have been reformulated or concepts and mechanisms already defined and used by more developed customs administrations have been introduced, from a futuristic perspective of administrative modernization, although it does not constitute an end in itself, rather it aims at framing and guiding a very wide range of customs legislation that needs to be produced, for example the Organic Customs Law, The Customs Tariff, the Code of Conduct, mentioning only the most structuring.

Thus,

The Government decrees, in accordance with article 115, paragraph 1 a) and article 116 subparagraph d) of the Constitution of the Republic, to validate as law, the following:

Article 1

Approval

The new Customs Code hereinafter referred to as the Code, published in an annexe to the present Decree-Law, which is part hereof, is hereby approved.

Article 2

Good administrative practices

1. Within one year from the date of entry into force of this Decree-Law, the Government, through a Resolution of the Council of Ministers, adopts a "Guide to good administrative practices".
2. The guide referred to in the previous paragraph has a guiding character and states standards of conduct to be adopted by the Public Administration.

Article 3

Application in time and production of effects

The procedures pending at the time of entry into force of this Decree-Law are, and until the final decision is made, regulated by the legislation applicable at the time the acts were practised.

Article 4

Subsidiary legislation

To all that is not specifically provided for in this Decree-Law and according to the nature of the matters concerned, the legal regime contained in the following diplomas applies in a subsidiary manner:

Code of Criminal Procedure;

Code of Administrative Procedure.

Article 5

Revocation rule

The following acts shall be revoked:

- a) Decree-Law no. 9/2004 (General Regime for Import, Storage and Circulation of Products Subject to Selective Consumption Tax);
- b) Decree-Law no. 10/2004 (Legal Regime of Customs Tax Violations of Timor-Leste);
- c) Decree-Law no. 11/2004 (Customs Code of Timor-Leste);
- d) Decree-Law no. 15/2005 (Statute of Official Dispatcher); and
- e) Decree-Law no. 5/2007 (Customs Emoluments and Customs Fund Regime).

Article 6

Entry into force

This Decree-Law will enter into force ninety days after its publication.

Approved by the Council of Ministers on October 11, 2016.

The Prime Minister,

Dr. Rui Maria de Araújo

The Minister of Finance,

Santina J. R. F. Viegas Cardoso

Promulgated on 16. 03. 2017

To be published.

The President of the Republic,

Taur Matan Ruak

CUSTOMS CODE

TITLE I

GENERAL PROVISIONS

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

1. This Code establishes the rules and general procedures for the import and export of goods pursuant to article 3 subparagraph qq) of this Code, their movement and use in customs territory, the control of passengers and the respective administrative and enforcement powers of Customs.

2. This Code applies uniformly to:

- a) The entire customs territory of Timor-Leste;
- b) Trade between Timor-Leste and other countries, except where it is established in a different way, in international agreements of which Timor-Leste is a contracting party.

3. Any act or omission that constitutes a crime in accordance with the provisions of the Penal Code remains subject to the measures established by this Decree-Law and under the jurisdiction of the competent courts.

Article 2

Customs territory

The customs territory of the Democratic Republic of Timor-Leste comprises the land area, the sea area and the airspace bounded by the national borders of Timor-Leste, in accordance with the Constitution of the Republic, the applicable law in force and the international law, including the enclave of Oecússi Ambeno, the island of Ataúro, the islet of Jaco, and other islands and natural or artificial formations and platforms for prospecting and exploration of resources.

Article 3

Definitions

For the purposes of this Code, the following definitions shall apply:

- a) *Customs authority or Customs*: it is the public entity competent to administer and apply the customs legislation and a legally qualified official;
- b) *Customs of Control or competent Customs*: the customs service with jurisdiction over the customs warehouse;

- c) *Inward processing*: the customs procedure which allows receiving in the customs territory, with the suspension of duties and other import charges, certain goods to be transformed, processed or repaired, and subsequently to be exported;
- d) *Presentation of goods and/or means of transport to Customs*: communication to the customs authority of the arrival of goods and/or means of transport to the customs office or other place designated or approved by that authority, in accordance with the procedures laid down in this Code;
- e) *Electronic signature*: personal data in electronic form in, affixed to or associated with a registration that can be used to identify the signatory in relation to that registration and to indicate the intention of that signatory with respect to the information contained in the register;
- f) *Digital signature*: the particular property of a user, or process that is used for signing messages over a communication link;
- g) *The release of goods*: the act by which Customs makes the goods available for the purposes established in the customs regime under which they are submitted;
- h) *Customs control*: the acts and set of measures applied by Customs to ensure compliance with customs legislation or other legislation of Timor-Leste governing the import, export, transit, transshipment and warehousing of goods moving between Timor-Leste and other countries or territories, and the movement of foreign goods, passengers and luggage in Timor-Leste;
- i) *Bill of lading*: commercial document required for the movement of all goods at customs frontiers, which serves as proof of the terms and conditions of carriage, agreed between the two parties (importer and supplier). Each document has a unique number;
- j) *Countermark*: the sequential number assigned to each means of transport corresponding to its entry into the customs clearance office, with or without commercial purposes;
- k) *Date/time of receipt*: The official date/time entered in the customs declaration at acceptance;
- l) *Declarant*: the natural or legal person authorized by Customs to comply with tax obligations related to the declared customs regime;
- m) *Customs declaration*: the act by which the declarant expresses a wish to subject certain goods and/or means of transport to a customs procedure and indicates the elements which are legally required to be used for the application of that procedure, using for that purpose the form and method provided for in this Code and other customs legislation;
- n) *Decision*: any administrative act issued by Customs, based on the customs legislation, deciding on a specific case, whose legal effects fall on one or more persons determined or susceptible to be determined;
- o) *Prior decision*: a written decision issued by Customs with respect to an applicant, prior to the importation of goods, that determines the treatment that Customs will give to the merchandise at the time of importation;

p) *Depositor*: the declarant who places goods under the customs warehousing procedure or the person to whom the rights or obligations of the regime have been transferred in accordance with article 200;

q) *Authorized Depository*: the person authorized under article 22 of this Code to operate the customs warehouse;

r) *Customs dispatch*: the completion of customs formalities necessary to enable importation and exportation of goods, or their placing under other customs procedures;

s) *Customs duties*: indirect taxes levied on the value of goods imported or exported within the customs territory, i.e. the product of the tariff rates by the taxable units;

t) *Customs duties on imports and taxes*: any customs duties or taxes determined by law on or in respect to goods imported into Timor-Leste;

u) *Customs duties on exports and taxes*: any customs duties or taxes determined by law on, or in respect to goods exported from Timor-Leste;

v) *Duties and other charges*: customs duties, taxes, levies and other taxes which affect the value of the goods to be imported or exported and whose collection is in charge of Customs;

w) *Director General*: the person appointed or designated by law as responsible for the Customs Directorate;

x) *Customs debt*: the obligation of a person to pay customs duties and other charges applicable to specific goods under customs legislation;

y) *Customs clearance*: the completion of the customs formalities necessary to introduce the goods for consumption, to export them or to make them subject to other customs procedure;

z) Customs-approved treatment:

i. The placing of goods under a customs procedure;

ii. Its destruction;

iii. Its abandonment in favour of the State.

aa) *Document*: a description, a report, a statement, a request, a notification, a receipt or other written document;

bb) *Electronic document*: it is a document whose material support is some type of electronic device and contains and is digitally coded and can be read and reproduced through its own helpers;

cc) *Customs warehouse*: it is a customs area under customs control authorized in accordance with article 22;

dd) *Customs office*: a seaport, an airport, a land border, an internal storage container or any other place designated under article 13 where all or part of the formalities laid down in customs legislation may be complied with;

ee) *Customs status*: the status of goods as domestic goods or foreign goods;

ff) *Dockworker*: a person transporting goods on a ferry, barge or other ship from a ship to a port or between different places in a port;

gg) *Exporter*: the person by or for whom the goods are exported and include the person who is or becomes the owner, or the holder of the possession, or the beneficiary interested in such goods at the time, or after the export declaration and before they are exported;

hh) *Customs surveillance*: any activity carried out by Customs to ensure that customs formalities are carried out;

ii) *Customs formalities*: all the operations which, in compliance with customs the legislation, must be carried out by the interested parties and by customs with regard to the presentation and clearance of goods and/or means of transport;

jj) *Guarantee*: which ensures, to the satisfaction of Customs, the performance of an the obligation to them. The guarantee is "global" when it ensures the performance of obligations arising from various operations;

kk) *Temporary importation*: the customs procedure which allows the receipt, in a customs territory, in total or partial suspension of duties and other import charges, of certain goods imported for a specific purpose and intended to be re-exported within a specified period without modification, except for normal depreciation due to its use;

ll) *Importer*: the person by or for whom the goods are imported and include the the consignee of the goods, or the person who is, or becomes the owner, or the holder

of the possession, or the beneficiary interested in such goods from the moment of the

importation and until the completion of customs formalities;

mm) *Customs violation*: any violation or attempted violation of the customs the legislation, defined in Title XIX;

nn) *Settlement of duties and other charges*: determination of the amount of duties and other charges to be collected;

oo) *Customs legislation*:

i. This Code and its regulations;

ii. The laws of Timor-Leste containing provisions to impose customs duties and other taxes on the import and export of goods;

iii. International agreements containing customs provisions, of which Timor-Leste is a contracting party.

pp) *Trade policy measures*: non-tariff measures contained in legal provisions, including dumping, safeguard costs or compensation of subsidies or quantitative restrictions imposed on goods imported or exported for the purpose of supporting or protecting the commercial interests of Timor-Leste;

qq) *Goods*: includes transportation, animals, documents, currency, luggage, electricity, piped goods, and goods whose import or export is prohibited or conditioned by law;

rr) *Foreign goods*: goods other than those referred to in subparagraph tt);

ss) *Equivalent goods*: domestic goods used in processing operations rather than foreign goods placed under a processing procedure;

tt) Domestic goods:

i. Goods wholly obtained or produced in national territory;

ii. Foreign goods that have been introduced into free circulation;

iii. Goods manufactured or produced in the national territory exclusively from goods described in i) or ii).

uu) *Goods subject to excise tax*: goods that can be taxed as excise tax according to the legislation in force;

vv) *Minister*: the person designated by law, responsible for the oversight of Customs;

ww) *Processing operations* mean:

- i. Processing of goods;
- ii. The assembly, the consolidation and the adjustment of goods in other goods;
- iii. The manufacture of goods;
- iv. The repair of goods, including their restoration and re-qualification.

xx) *Authorized Operator*: a legal entity that, within the scope of its professional activity and after evaluating compliance with the criteria established by the customs administration is considered a reliable and trusted operator. When in the scope of their activity as an importer and/or exporter they benefit from additional advantages in the process of customs clearance, they are called authorized economic operator;

yy) *Customs Tariff*: the legal diploma constituted by tables or charts in which are assigned the various goods, systematically distributed and codified by positions, subheadings and tariff articles, upon entry and exit in a customs jurisdiction;

zz) *Person* means:

- i. A natural person;
- ii. A legal person;
- iii. An association of persons recognized as having the capacity to execute legal acts, but without having a legal personality;

aaa) *Person established in Timor-Leste* means:

- i. In the case of a natural person, any person residing there;
- ii. In the case of a legal person or an association of persons, any person who has its registered office, central administration or permanent establishment there.

bbb) *Processing procedure* means:

- i. The drawback regime;
- ii. The inward processing regime;
- iii. The outward processing regime.

ccc) *Processed products*: goods obtained after one or more processing operations;

ddd) *Provisions*: goods for use in means of transport including fuel, spare parts and other articles of equipment, whether or not for immediate use, board supplies for the consumption of crew members and goods carried for sale to passengers on board;

eee) *Appeal*: the act by which a person directly concerned and considered to be harmed by a decision or omission by Customs resort to a competent authority;

fff) *Customs resources*: any device or equipment used by Customs in the verification of goods or persons and may include, but not only, X-ray equipment, including X-ray containers; dogs trained to detect smuggling; chemical detection devices; radiation detectors and cameras;

ggg) *Customs regime*: the set of specific customs procedures applicable to goods, means of transport and other goods, by the customs authority and the placing of the goods under one of the following regimes:

- i. Introduction into free circulation;
- ii. Temporary importation;
- iii. Customs warehouse;
- iv. Customs transit;
- v. Definitive export;
- vi. Temporary export;
- vii. Drawback;
- viii. Inward processing;
- ix. Outward processing ;
- x. Free zones and free warehouses;
- xi. Transshipment;
- xii. Provisions;
- xiii. Re-export.

hhh) *Registration*: information entered on a tangible medium or stored in an

electronic

medium, or other, and retrievable in a perceptible form;

iii) *Electronic register*: a register created, generated, sent, communicated, received or stored by electronic means;

jjj) *Refund*: total or partial refund of customs duties or taxes paid in excess of the amount due for the goods declared;

kkk) *Administrative sanction*: the administrative penalty established under Title XIX, concerning a customs infraction;

of
lll) *Harmonized System*: the Harmonized System of Classification and Codification of Goods, annexed to the International Convention on the Harmonized System of Classification and Codification of Goods, done at Brussels on 14 June 1983, as amendments and explanatory notes;

mmm) *Customs information system*: any system established or designated by the Director General to generate, send, receive, or otherwise process the documents and payments designated by article 79;

nnn) *Yield rate*: the quantity or percentage of compensating products obtained from the processing operations to which a given quantity of goods was subjected;

ooo) *Transport*: any means of transport used to carry goods or passengers, such as a boat, an airplane, a vehicle or an animal;

and
ppp) *Customs value*: the transaction value of the goods, including costs, insurance and freight in accordance with the provisions of article VII of the General Agreement

on Tariffs and Trade (GATT);

qqq) *Verification*: verification and comparison of the customs declaration with the specifications in the accompanying documents;

rrr) *Check of the goods*: the operation by which Customs conduct a physical examination of the goods in order to ensure that their nature, origin, condition, quantity and value are in accordance with the goods declaration data;

sss) *Travelers*: anyone who enters or leaves the national territory;

ttt) *Customs visit*: inspection carried out at a place or means of transport to verify compliance with customs procedures and other legal formalities.

Article 4

Delegation of competences

1. The Director-General may delegate, in whole or in part, the pursuit of any competence or act attributable to him under this Code to any customs officer.
2. The delegation provided for in this article shall be recorded in a written document stating its scope and duration in accordance with the law.

Article 5

Right of representation

1. Notwithstanding the provisions of this Code relating to the licensing of official dispatchers, any person may appoint a representative in its relations with Customs to carry out the acts and formalities required by customs legislation.
2. The representative shall state that he/she is acting on behalf of the person represented, with sufficient powers of representation.

3. A person who does not declare to be acting in the name of or on behalf of another person or who declares to be acting in the name of or on behalf of another person without having the power to do so shall be deemed to be acting in its own name and in its own account.

4. Customs may request any person who declares that he/she is acting in the name of, or on behalf of another person, proof of his/her powers of representation.

Article 6

Duty of cooperation

1. Any person directly or indirectly involved in the carrying out of customs formalities or customs control shall provide Customs with all documents and information requested and any assistance determined by Customs within the stipulated period.

2. All public and private entities shall cooperate, within the limits of their competence, with Customs, whenever it requests such cooperation.

3. On the organs of State administration, public institutes and public enterprises there is a special duty of cooperation with Customs, and they must provide all the information and clarifications necessary for the full performance of their functions.

Article 7

Extension of deadlines

When the customs legislation lays down a time limit, a date or a term for the purposes of its application, the time limit may be extended and the date modified or the terms deferred only to the extent it is expressly provided for by law or regulation.

CHAPTER II

JURISDICTION AND GENERAL OBLIGATIONS OF CUSTOMS

Section I

Jurisdiction

Article 8

The scope of Customs Jurisdiction

1. The jurisdiction of Customs is exercised on a permanent basis, under its direct action:

- a) In harbours, coves, rivers and anchorages;
- b) In territorial waters;
- c) In a land band of 10 km from the coast;
- d) In a land band of 10 km from the terrestrial border;
- e) At airports and aerodromes and on a land band of 2 km around it;
- f) In free zones, warehouses and other customs warehouses in an adjacent land band of 2 km in its turn;
- g) On offshore platforms and on a watercourse of 2 km around it.

2. In the exercise of their powers and within their jurisdiction, the customs authorities may adopt throughout the national territory all inspection actions and control measures which

they deem necessary for the correct application of customs legislation.

Section II

Supervision

Article 9

Supervision and customs control

1. Goods brought into the customs territory shall be subject to customs supervision and may be placed under customs control at any time and place.
2. The goods referred to in the preceding paragraph remain under customs supervision for the time necessary to determine their customs status.
3. National goods returning to the customs territory shall not be subject to customs supervision once Customs has determined their status as such.
4. Foreign goods shall remain under customs supervision until they are released for free circulation or placed in a free zone or free warehouse, re-exported, rendered useless or abandoned in favour of the State.
5. National goods declared for export shall be subject to customs supervision from the moment of acceptance of the declaration placing them under that procedure until their departure or until they are abandoned or rendered useless or the customs declaration is invalidated.

Article 10

Land Surveillance

1. Land surveillance is carried out by the customs authorities, and the exterior of Customs buildings and their premises, as well as the warehouses, free zones and customs warehouses, shall be permanently watched.
2. The customs control services shall be assigned the means of transport appropriate to the type of operation to be carried out, duly identified.

3. The identification may be concealed whenever the customs authorities deem it timely and convenient.

4. The surveillance referred to in paragraph 1 is carried out in accordance with the customs legislation and with the general and special instructions laid down for that purpose.

5. The customs authorities shall request the intervention of order and security forces if they consider that this is necessary for the fulfilment of the obligations imposed on them by law.

6. The forces of order and security are obliged to give the support requested by the customs authorities, under penalty of disobedience.

7. A report shall be prepared for all the steps taken. In the event that violations of customs legislation are found, a notice shall be issued pursuant to this Code and other applicable legislation.

Article 11

Maritime and River Surveillance

External surveillance in ports, inlets, anchorages and rivers is carried out, with the necessary adaptations, in accordance with the provisions of article 10.

Article 12

Air Surveillance

Air surveillance is carried out, with the necessary adaptations, in accordance with the provisions of article 10.

Section III

Other obligations

Article 13

Customs offices

1. The customs offices where the customs formalities are carried out are designated by order of the Minister, published in the Official Gazette.
2. The Minister may exceptionally, through an order published in the Official Gazette, temporarily designate other customs offices where customs formalities may be carried out.
3. The order referred to in the previous paragraph must contain the name, location, time limit and geographical limits, as well as the restrictions and stipulated conditions.
4. The Minister may, by an order published in the Official Gazette of the Republic, amend or revoke the designation of a customs office made under this article or amend or revoke the conditions and restrictions to which it was subject, as well as revoke those conditions or restrictions and impose new ones.
5. After consulting the interested parties, the Director-General determines the opening hours of customs offices.
6. Upon request and upon payment of the fees stipulated by the Minister, Customs may render service out of normal business hours.

Article 14

Rights of the interested parties to the information

1. Individuals have the right to be informed by Customs, whenever they so request, on:
 - a) The progress of the processes in which they are directly interested and the definitive decisions that are made about them;
 - b) General or specific application of customs legislation, regulations, instructions, final decisions and decisions of the World Customs Organization.
2. Customs may issue, through circulars or other means of communication, instructions and directives that may prove indispensable for the fulfilment of the norms related to the area of their competence.

3. As a matter of principle, the information provided by Customs is free; however, all those which in any way entail expenses are excluded, in particular, those resulting from analysis or expertises carried out, in which case such expenses are charged to the applicant.

4. For the purpose of this article, Customs shall establish its own information places.

Article 15

Publication

1. Without prejudice to the provisions of the following paragraph, the forms relating to customs declarations, to the collection of customs tax revenue, to the application of the procedure for determining the customs value of goods or to the fulfillment of the duties established in this Code and other customs legislation in force, are approved by the Minister, on the proposal of the Director-General.

2. Forms for the customs control of persons, goods and means of transport are approved by the Director-General.

3. The updated list of all current forms, as well as the places where they can be purchased, should, whenever possible, be published on the official website of the Ministry of Finance or of Customs.

Article 16

Consultations

Customs should establish good practices in order to maintain formal and regular consultations, either with other relevant national government agencies or with the private sector involved in international trade, on matters relating to the implementation of customs legislation.

Article 17

Professional secrecy

1. Customs officials are required to maintain professional secrecy with regard to facts,

information and documents of a confidential nature of which they are aware because of the performance of their duties.

2. The obligation of secrecy ceases in cases where the disclosure of facts, information or confidential documents has been expressly authorized by the person or entity that provided them.

3. The obligation of secrecy referred to in this article also ceases when the disclosure of facts, information and documents is ordered, in judicial proceedings, by the competent judicial authority, or others duly mandated by law.

Article 18

Conservation of documentation relating to customs activity

1. Without prejudice to the provisions relating to the expiration and settlement of customs debt, whoever in the country exercises an activity linked to international trade or other activity subject to the jurisdiction of Customs, shall keep, in an organized manner in terms of commercial bookkeeping, all documents and records relating to customs operations carried out, during a five-year period.

2. The period referred to in the previous paragraph shall be counted from the moment in which, according to the regime or procedure in question, the declarant or person concerned has practised or should have performed the acts that complete the regime or procedure.

3. At the request of Customs, the persons mentioned in paragraph 1 of this article shall:

- a) Make available to Customs all documents and records relating to customs operations carried out;
- b) Provide Customs, in accordance with the terms established by them, copies of those documents and records;
- c) Respond to any question concerning customs inspections and related documents and records.

4. Whenever the information relating to the customs operations carried out is recorded electronically, as referred to in Title V, or in any other type of support, the persons mentioned in paragraph 1 of this article, by determination of Customs, shall trigger or permit the activation of the data storage and processing device or platform in order to provide all necessary information, including:

- a) The electronic record in the format in which it was transmitted;
- b) The information identifying the origin, destination and date and time of transmission;
- c) All documents, records and information, in their original format transmitted through,
or
used in the preparation of the electronic record.

5. The records required to be retained on the basis of this article shall be submitted upon request by Customs for the purpose of customs control. Electronic records shall be submitted in the form of a hard copy or in any other format as specified by Customs.

6. Any person who obstructs or in any way conditions the prompt presentation of the documents referred to in this article incurs a customs tax infraction and is subject to an administrative penalty.

Article 19

Customs files

1. The customs authority shall create a general archive and archives with each Customs or Customs Delegation.

2. The time limits for archiving customs documents by customs offices are the following:

- a) Administrative documents: three years, after which they must be related and, with a delivery note sent to the general archive;
- b) Revenue documents: five years, after which they must be related and, with a delivery note sent to the general archive.

3. After the deadlines for conservation in the archives, referred to in paragraph 2, and once sent to the general archive, the documents in these archives shall be preserved for a further period of ten years.

4. It is incumbent on the general archive to classify the documents that have historical value that should be kept indefinitely.

5. For the purposes of this article, the following definitions shall apply:

a) Revenue document, any and all customs declarations by which a customs debt has been

incurred under this Code;

b) The administrative document, all other documents.

TITLE II

AREAS UNDER CUSTOMS CONTROL AND AUTHORIZED CUSTOMS ACTIVITIES

CHAPTER I

AREAS UNDER CUSTOMS CONTROL

Article 20

Authorization Required

No location may be used as an area under customs control unless authorized by the Director-General under the following paragraphs:

a) For the control of any ship or aircraft upon entry and exit from Timor-Leste, or for the loading or unloading of goods transported therein;

- b) For the transshipment of goods;
- c) To hold or store imported goods until their Customs clearance, i.e. in temporary storage situations;
- d) For the embarkation, landing or control of persons entering and leaving Timor-Leste;
- e) As a customs warehouse for the storage of imported goods;
- f) As a tax warehouse where, according to the legislation in force, the goods subject to excise tax may be produced, processed or maintained without payment of an excise tax.

Article 21

Competence to request authorization

1. An application for authorization to operate an area authorized under customs control may only be carried out by a person established in Timor-Leste who legally owns, occupies or operates that area.
2. As stipulated, the request must be made in the format, in the manner, with the information and instructed with the necessary documents.

Article 22

Authorization requirements

1. The Director-General may authorize the concession for the operation of an area under customs control taking into account the economic reasons alleged by the person concerned

when other customs offices and areas under customs control are unable to carry out such customs control and under terms, conditions or restrictions as it deems necessary to ensure the proper execution of the operations.

2. The authorization shall specify:

- a) The area in respect to which the authorization is granted and the scheme under which it is authorized;
- b) The applicant as an authorized person;
- c) The objective or objectives described in subparagraphs a) to f) of article 20, so that the area is authorized;
- d) Any terms, conditions and restrictions.

Article 23

Provision of guarantee

Taking into account the exceptions stipulated by the Minister and the provisions of this Code relating to the customs warehousing procedure, a person authorized to operate an area under customs control must provide a guarantee in order to safeguard all the interests of the State against any loss or expense relating to, or resulting from the warehousing, storage or handling of goods in the area under customs control.

Article 24

Records

The authorized person must keep records of all his/her activity as stipulated. The data in the records shall enable the areas under customs control to be inspected, in particular as regards the identification of the goods placed there, their customs status and movements into, out of, and within the area under customs control.

Article 25

Customs supervision in areas under customs control

1. The authorized person shall provide and maintain without charge to the State operational areas such as accommodation, facilities, buildings, equipment and storage as the Director-General may determine to be necessary and appropriate for the accomplishment of the powers and duties of Customs.

2. The authorized person shall store the goods subject to customs supervision in the manner and place as determined by the Director-General.

3. Customs may at any time:

a) Require the presentation of goods held or deposited in the area under customs control;

b) Check or re-check the entry and exit of goods, whenever deemed necessary;

c) Require the presentation, with or without regularity, of inventories of all or part of the goods held or deposited in the area under customs control, as well as carry out audits of stock records;

d) Deploy Customs officials to, or in the area under customs control.

Article 26

Suspension or withdrawal of authorization

The Director-General may suspend or revoke the authorization to operate an area under customs control if he/she determines that the area is not or is no longer sufficiently used to justify customs procedures necessary for its supervision.

Article 27

Closure of the area under customs control

1. When any authorization to operate an area under customs control has been cancelled, revoked or waived, customs duties and other customs charges shall be due on all goods

existing in that area which are or have been subject to customs supervision immediately before the cancellation, revocation or waiver, unless the Director-General permits the removal of the goods to another area under customs control or them being subject to a customs procedure.

2. In the situations referred to in the preceding paragraph and for the period of time stipulated therein, or until the goods are placed in another area under customs control, no costs are charged to the person authorized for the receipt or storage of imported goods that are in an area under customs control.

Article 28

Transfer between warehouses

1. Without prejudice to article 205 on the temporary removal of goods from a customs warehouse, movement of goods placed under a customs warehousing procedure shall be permitted only:

- a) Between authorized customs warehouses;
- b) On their importation directly into an authorized customs warehouse;
- c) On their export directly from an authorized customs warehouse.

2. The movement of goods subject to selective consumption tax that are in a tax warehouse, without payment of this tax, is only allowed:

- a) To another authorized tax warehouse;
- b) On their export directly from an authorized tax warehouse.

3. The movement of goods subject to selective consumption tax or to a customs warehousing procedure under this article shall be subject to the provision of a guarantee to ensure payment of customs duties and other charges and to ensure the proper performance of such

operations.

4. The Director-General shall regulate:

- a) The conditions under which any movement of goods must take place under this article, and the related supporting documents;
- b) The person who can or must provide the guarantee required in this article, namely the person authorized to operate the tax or customs warehouse who sends or receives the goods, the carrier or the owner of the goods.

Article 29

Cancellation of authorization

1. An authorization or license issued under this Title shall be revoked and the submission of an application for authorization or license shall be denied if it is determined that the authorized, licensed or applicant person, as the case may be, or the person who controls or manages the activities of such authorized, licensed or applicant:

- a) Was condemned by the practice of crime predicted in the Criminal Code of Timor-Leste,
which involves the import or export of goods, breach of confidentiality, coercion or obstruction of the government or judicial authorities, theft or any other form of misappropriation of property, fraud, false testimony, bribery, or another form of corruption
of a public official, embezzlement, forgery, counterfeiting, tax fraud or circumvention of customs duties;
- b) Has committed a customs offence under article 354 or advise, order, induce, hire or consciously aid or encourage the practice of Customs violation by another person, including a Customs official;

c) Has repeatedly committed customs offences of any kind.

2. The authorization or license issued under this Title may be suspended or revoked by Customs if it is determined that the person authorized or licensed, as the case may be, has not fulfilled the conditions stipulated in the authorization or license.

3. The provisions of this article shall be, without prejudice to the justification for refusing requests for suspension or revocation of license authorizations, laid down in other articles of this Title.

CHAPTER II

AUTHORIZED ACTIVITIES

Section I

On who can declare

Article 30

Entities authorized to dispatch or declarants

1. The request of any customs or fiscal declaration of the goods whose receipt is to be assigned to Customs, as well as the promotion of any documents concerning them, is exclusively up:

a) To the owners or consignees of the goods, whether they appear in person or through their employees duly authorized with their power of attorney or certificate of private dispatcher;

b) To the official dispatchers who are conferred by the owners or consignees of the goods power of attorney to act in their name and on their behalf.

2. The owners or agents of sea or air shipping companies, in respect of ships or aircraft owned or assigned to them, may take part in all the acts and formalities necessary for the so-called "dispatch of ships and aircraft".

3. Declarations before Customs may not be made by persons who are insolvent or by those

who are subject to the prohibition of the exercise of the activity of declaring before Customs and official dispatchers during the period of compliance with the disciplinary suspension sentence.

4. Requests for exemption or tax benefit which are the subject of an autonomous procedure, as well as the granting of authorization for a suspensive customs procedure, shall always be accompanied by a power of attorney issued by the respective beneficiary when it is not him/her to do so.

Article 31

Security deposit

1. The Director-General shall require all persons intending to carry out the activity of declaring before Customs an irrevocable security deposit of at least US\$ 10,000 as an obligation prior to the exercise of such activity.

2. The Director-General may determine that the security deposit is provided in an amount in excess of the minimum referred to in paragraph 1, up to a maximum of US\$ 40,000 for natural persons or US\$ 150,000 for legal persons, depending on the type of goods, the amounts involved and the number of customs or tax declarations submitted, as well as in cases of repeated non-compliance with customs legislation.

3. The substitutes of persons who have been required to provide a security deposit as an obligation prior to the exercise of the activity of declaring before Customs must also be covered by the mentioned security deposit.

4. The owners or consignees of goods that wish to make the customs declaration directly before Customs and do not hold the certificate referred to in article 37 must prove their respective civil and fiscal identification, should their status as recipients, consignors or consignees of the goods result from the documentation to be attached to the declaration.

5. In the case of a legal person, it shall be deemed to be empowered to make the customs declaration a natural person who, in accordance with the respective statutes or minutes of the general meeting, has the power to represent it and proves to be the owner or consignee of those goods.

6. When the owners or consignees of the goods have requested the issuance of a license referred to in article 32, they are subject to the specific authorization and licensing process, after which Customs will register them.

Section II
Official Dispatcher

Article 32
License application

1. No one may make a customs declaration in the name of or on behalf of another person unless he/she holds a valid official dispatcher license issued by the Director-General.
2. Without prejudice to the provisions of the preceding paragraph and of this Code as regards the right of representation, an employee or official of a legal person who submits the customs declaration on behalf of the legal person, does not have to possess a license of official dispatcher.

Article 33
Admission

1. Admission to the profession of the official dispatcher is done through a public tender organized in three (3) different phases, respectively candidacy, a training course for access to the official dispatcher and a final admission test.
2. The announcement of the invitation to tender referred to in the previous paragraph is determined by order of the Minister and published on the official website of the Ministry of Finance and Customs during the thirty (30) days prior to the commencement of the training course.
3. The regulation of the competition, as well as the training course for access to the official dispatcher, is regulated by ministerial decree.
4. The Minister shall be responsible for the need and opportunity to open public tenders for the admission of new official dispatchers.

Article 34

Application

1. Requirements for submission of applications:

- a) The person must be established in Timor-Leste and must bear a civil identification card or the commercial registration certificate and the tax identification number (TIN);
- b) Be over 21 years of age;
- c) Have minimum academic qualifications of the 9th year of compulsory schooling or equivalent;
- d) Prove that they are not debtors of taxes to the State through a debt certificate;
- e) Have not been convicted of a crime or of a tax offence.

2. The list of admitted candidates shall be the subject of an order of the Minister and published on the official website of the Ministry of Finance and Customs.

Article 35

Training course

1. Candidates admitted to the first stage are eligible to take part in the training course for access to the official dispatcher.

2. The training course shall have a duration of at least **sixty (70)** hours and its schedule shall be included in the order of the Minister approving the list of candidates admitted to the first phase.

3. At the end of the training course, there will be a selective knowledge test, in which the candidates are evaluated and classified individually, being the list of candidates approved for the final phase published.

Article 36

Final admission test

1. Candidates approved in the training course referred to in the previous article are considered suitable to take final exams of admission to the official dispatcher.
2. Exams shall be done in Dili within 30 (thirty) days after the publication of the list referred to in the previous article and shall deal with practical customs topics, including always a practical part on questions of tariff classification of goods.
3. The jury will be composed of three (3) members, is chaired by the Director-General, who will appoint the other two members, and one of them may represent the professional public association of official dispatchers.
4. The final classification of candidates will be published in the Official Gazette, in a list to be approved by order of the Minister.

Article 37

Provision

It is considered as official dispatchers those who, being approved and classified in the list referred to in the previous article and having provided Customs with the security deposit for the exercise of the activity referred to in article 31, receive their respective Professional Certificate.

Article 38

Security deposit

1. Prior to commencing the activity as an official dispatcher, the person licensed under article 32 must submit a security deposit between the minimum amount of US\$ 10,000 and the maximum amount of US\$ 150,000 as stipulated by the Director-General in order to ensure compliance with customs legislation.

2. At the date of entry into force of this law, the guarantees provided by official dispatchers already licensed will be subject to revision so that they can be harmonized.

Article 39

Issuance and registration of the certificate

1. The official dispatcher's certificate shall be issued by the customs authorities, which must ensure the registration of the persons holding the certificate, being the obligation of the holder to notify any change in the data included in the said register.

2. Customs may at any time require the official dispatcher to prove his/her performance in the name and on behalf of the owner or consignee of the merchandise.

3. In the case of legal persons, the certificate is issued to the natural person who represents it or to the person designated by it, provided that it is a partner or the managing partner at its exclusive service.

Article 40

Identification card

1. Upon request of an authorized official dispatcher and payment of the stipulated fees, Customs issues an identification card.

2. The Director-General shall issue an identification card to the declarant, upon application and payment of the stipulated fees, in favor of a person who regularly makes customs declarations on his/her own behalf, or who, as an official or regular employee of the legal person, is authorized to make customs declarations on behalf of that legal person.

3. It shall be stipulated the manner, requisition and necessary supporting documents and any conditions or restrictions regarding the use of the identification card, according to this article.

Article 41

Suspension or revocation of license

1. The Director-General may suspend or revoke a license issued to an official dispatcher in the following cases:

- a) Provided that it is determined that such official dispatcher, in the course of his/her commercial activity has attempted in some way, with the purpose of defrauding in a conscious and deliberate way, to mislead, deceive or threaten a current or possible client;
- b) The professional performance of this official dispatcher is considered unsatisfactory on the basis of errors made in customs declarations delivered to Customs in accordance with the guidelines published by the Director General;
- c) Provided that it is determined that such official dispatcher does not actively carry out his/her activity.

2. The Director-General shall revoke the official dispatcher's license issued in the name of a legal person when it determines that he/she has not employed for at least one hundred twenty (120) days at least one employee or another person with responsibility for the management of commercial operations licensed under article 32.

Article 42

Maintenance of records and reports

The authorized official dispatcher shall maintain and present books and records whenever requested by Customs, as well as draw up reports stipulated by the Director-General which may be deemed necessary to protect the persons represented, ensure proper collection of revenue and compliance with customs legislation, as well as the application of the provisions of this Section.

Section III
Professional Public Association Representative of Official Dispatchers

Article 43
Representativeness

1. The representative association of official dispatchers is the professional and representative association of the holders of the respective professional card.
2. Membership in the association is mandatory as an indispensable condition for the official dispatcher to be able to exercise his/her profession.
3. The Statutes of the association are approved by a proper diploma and, in the same way, respective amendments are published in the Official Gazette.

Article 44
Competence and disciplinary action on all Official Dispatchers

1. The structure of the association representing the official dispatchers according to the territorial division of the country, the definition of its organs, competences, functioning and composition shall be included in the respective Statutes.
2. The association may charge to official dispatchers a monthly, semi-annual or annual contribution, to be defined in a proper diploma, and may acquire and manage its own assets.

Article 45
The exercise of the profession in individual name and in partnership

1. Official dispatchers may carry on their business individually or in a professional venture of which they are partners.
2. The professional business ventures of official dispatchers have as a sole object the

exercise of their professional activity.

3. Professional business ventures of official dispatchers take the form of limited liability companies, should their articles of association be approved in advance by the association representing the official dispatchers.

4. The professional business ventures of official dispatchers currently in existence remain valid until their settlement, and the assignments of quotas can only be made to official dispatchers.

5. The management of the business ventures referred to in the previous paragraphs is solely for partners who are official dispatchers.

Section IV

Authorized Operators

Article 46

Authorized operators

The Director-General shall, as stipulated, accord the status of the authorized operator to persons established in Timor-Leste who has demonstrated an adequate level of compliance with customs legislation and other criteria for compliance or non-compliance with risk, without prejudice to customs controls.

Article 47

Authorized economic operators

1. In the event of being assigned by the Director-General, as stipulated, the status of the authorized economic operator, he/she may be able to use simplified customs formalities and controls. On the basis of recognition of the status of economic operator authorized for customs simplifications and provided that the requirements for a specific type of simplification specifically provided for in the customs legislation are met, the customs authorities shall authorize the operator to benefit from such simplification.

2. The authorized economic operator referred to in the preceding paragraph benefits from a more favourable treatment than other economic operators, with respect to customs controls,

depending on the type of authorization granted, in particular, less physical and documentary checks.

3. When a treaty or international agreement of which Timor-Leste is a contracting party allows the extension of the benefits of authorized economic operators provided for in the preceding paragraph to persons established in a country other than Timor-Leste, the Director-General shall grant such benefits to such persons if he/she determines that they have the same status under the law of that country.

Section V

Dockworker

Article 48

License

1. The pursuit of dockworker activity at customs offices designated by the Minister shall be subject to the granting of a license.

2. The application for obtaining a license to work as a dockworker must be addressed to the Director-General in accordance with the rules stipulated by him/her.

Article 49

Eligibility criteria

1. The Director-General shall, after consultation with the Port Administration of Timor-Leste, define and lay down the appropriate criteria necessary for the activity of a dockworker in order to ensure the protection of revenue collection and the compliance with customs legislation.

2. In defining such criteria, the Director-General shall take into account the applicant's profile, qualifications and experience and the suitability of his/her equipment and shall require the provision of a guarantee.

Article 50

Identification

The licensed dockworker must present his/her license for verification at the request of Customs and, as stipulated by the Director-General, must keep the license on the ferry, barge or another licensed vessel in a visible place.

Article 51

Records and reports

The licensed dockworker shall maintain and present books and records whenever requested by Customs, as well as prepare the reports stipulated by the Director-General relating to his/her stowage activity.

Article 52

Mooring place

Whenever necessary, Customs may agree with the Port Administration of Timor-Leste to designate moorings for means of transport operated by a dockworker.

TITLE III

CUSTOMS POWERS

Article 53

Customs control

1. Customs may, within the scope of its own powers, carry out customs controls judged to be necessary and adequate to carry out its mission.

2. Any customs control, including random checks, based on the risk analysis carried out using electronic data processing techniques shall, as a principal objective, identify and assess the risks and elaborate the necessary response measures within the criteria developed at national and international level.

Article 54

Powers of the authority of customs officials

1. Customs officials within the scope of their powers may:

- a) At the request of the police or other competent authorities, execute or notify a judicial decision, a summons, citation or notice, or other legally admitted procedure;
- b) Conduct investigations of infringements that have been committed in contravention of customs legislation;
- c) Carry out activities aimed at the protection of the collection of revenues and the prevention and detection of infractions of customs legislation, in the terms, established by the Minister.

2. Whenever it is necessary to enforce the fulfilment of obligations imposed by law, Customs shall require the collaboration of security forces to maintain law and order.

3. Security forces and services for the maintenance of law and order are required to provide the support required by Customs.

4. All proceedings are taken under this Code and other applicable legislation are obliged to prepare a report and, in case of suspect of crime or misconduct, to prepare the respective notice and other mandatory procedural documents.

Article 55

Control and inspection of means of transport

1. Customs may, for the purpose of inspection, limit or condition the movement of any means of transport which:

- a) Has arrived in the customs territory of Timor-Leste from abroad;
- b) Is leaving or is in transit from the customs territory of Timor-Leste to another place abroad;

c) Transports goods which have been transferred from a means of transport referred to in a)

or are transferred to a means of transport referred to in b).

2. Customs may check the manifest and other documents of the means of transport mentioned in paragraph 1 of this article and verify, inspect and conduct searches on that means of transport, as well as search any person, luggage, packages, envelopes or cargo on board, being that exclusively for that purpose and, when circumstances require it, make use of force, according to the law.

3. Customs may isolate any part of the means of transport and, through means deemed necessary, detain it for the purpose of requiring the unloading or removal of goods for examination, or in order to maintain safety conditions for other operations, as well as seal, affix marks or any other form deemed appropriate to protect the goods transported.

4. Customs may place one or more customs officials on board of any means of transport on arrival at a customs office while this means of transport is still in port and, if necessary, while transiting from port to port to verify cargo and the means of transport and to supervise the unloading operations, as well as perform other duties that are required by law to ensure the protection of the collection of revenues.

5. All remuneration and expenses for the services provided in accordance with paragraph 2 of this article shall be entitled to return by the State to the owner or person in charge of the means of transport, unless the customs official is housed and fed on board, equivalent to passengers.

Article 56

Interrogate and detain people

1. Customs officials within the scope of their powers may interrogate any person entering or leaving the territory of Timor-Leste, or who is found in the areas defined in article 8.

2. When, as a result of questioning or any other diligence, Customs has sufficient evidence to suspect that a person has committed, or is preparing to commit, the crimes of smuggling or non-payment of customs duties, as defined by the Penal Code, it may proceed to his/her detention in the following terms:

a) Allow Customs to carry out the necessary steps to fully clarify the required customs procedure;

b) Ensure the presence of the detained person before the judicial authority in a procedural

act of validation of the detention or for determination of another measure of coercion.

3. Customs shall release or surrender the person detained under this article to the custody of the competent authorities, and not do so in a previous moment, within a maximum period of 6 hours from the moment of the arrest.

Article 57

Search to people and their luggage

1. Customs officials in the performance of their duties may carry out a search of a person:

a) On board a means of transport which has entered or is leaving the territory of Timor-Leste;

b) In the process of disembarkation or embarkation of the means of transport described in subparagraph a);

c) Who has entered Timor-Leste and remains in a place under customs control.

2. Customs officials may search the luggage accompanying the person described in the preceding paragraph.

3. Customs may, in accordance with paragraph 1 of this article, retain persons for a preliminary search.

4. If, after the preliminary search, Customs keeps suspecting that the person has concealed, in or around him/her, any type of goods or objects liable to contravene customs legislation, they may retain and search such person and may, if necessary and under the law, resort to

the use of force.

5. Customs officials may immediately detain and search a person if there are suspicions that:

- a) He/She carries or hides in or around himself/herself a dangerous item;
- b) The item represents a threat to the security of the customs official or to third parties;
- c) There is a need to act immediately in order to manage this threat;
- d) The search in accordance with paragraphs 3 and 4 of this article shall subject the customs official or third person to a greater risk to his/her physical integrity.

6. For the purposes of this article, a preliminary search is considered when:

- a) It involves little or no physical contact between the person doing the search and the person being searched; and
- b) It is conducted through Customs' own resources without the use of any intrusive means or instrument.

7. Any type of search is always performed by individuals of the same sex.

Article 58

Conduct searches on ports or facilities

Customs may at any time conduct searches on:

- a) Any area defined in accordance with article 8;
- b) Any means of transport located within the limits of that area and, in accordance with the

provisions of the previous article, search any person found in that place or in that means of transportation.

Article 59

Reviews on persons and searches outside the customs jurisdiction

On suspicion that any foreign goods which have not paid customs duties on imports or which have been imported in violation of the law are in the possession of a person, or in a residence, shop or other building or place in the territory of Timor-Leste, Customs may request under the terms of the Criminal Procedure Code an order for the search and seizure of any commodities or other goods.

Article 60

Seizure of means of transport and goods

If Customs determines, through due diligence is taken, that any means of transport or goods have been used in the commission of a customs infraction resulting in confiscation, they are seized and remain under Customs custody until the final decision of the process.

Article 61

Ex-post checks after release authorization

1. Customs may, after release of the goods and for the purpose of determining accurately the information contained in the cargo report or in the customs declaration, inspect any documents or transaction data relating to the goods in question before or after commercial transactions involving such goods, and may also check for such goods and/or take samples when still possible.

2. Such inspections shall be carried out at the premises of the declarant or holder of the goods or his/her legal representative, of any other person directly or indirectly involved in such operations in his/her professional capacity or of any other person in possession of documents or information for commercial purpose.

3. Customs, having complied with the formalities contained in the Code of Criminal Procedure, may access any premises or facilities where documents, records or physical or

computer data relating to an external trade or manufacturing activity subject to customs control are maintained, with the purpose of inspecting them in accordance with article 18 of this Code.

4. Customs may verify such documents, records and data for the purposes of customs control and may have them copied or seized, and in this case provide a copy to the importer, exporter, agent or manufacturer. Customs may also question others who are at such locations to verify compliance with the law.

5. At any time during the inspection and for the purposes of the investigation, Customs may, for the time necessary to copy the required information, seize any computer device that supports the control, processing and storage of documents, records or data.

6. Customs officials acting under any powers provided for in article 18 or with the powers referred to in this article shall be authorized to do so through an order of the Director-General.

TITLE IV

CUSTOMS RULES AND DECISIONS

CHAPTER I

CUSTOMS RULES

Article 62

Stakeholder consultation

Prior to the adoption of measures for the implementation of this Code by the Minister or the Director-General, as the case may be, they shall ensure that interested persons are consulted and a reasonable time is allowed for them to submit comments on the proposed measure, unless the concerned measure determines that such consultation and subsequent observations are impractical, unnecessary or contrary to the public interest.

Article 63

Prior publication

Measures for the implementation of this Code shall be published at least thirty (30) days

before its entry into force, unless the Minister or the Director-General, as the case may be, determines otherwise in light of urgent circumstances or other just cause, which should be mentioned at the time of its publication.

CHAPTER II

CUSTOMS DECISIONS

Article 64

Issuance of customs decisions

1. When an applicant applies to Customs for a decision on the application of customs legislation, he/she shall be obliged to supply to the said authorities, within a maximum period of ten (10) days, all elements and documents necessary for that purpose.
2. Without prejudice to the time limits for specific decisions provided for in customs legislation, Customs shall decide and notify the applicant no later than thirty (30) days after the date on which they have received all the information requested.
3. This time limit may, however, be extended when it is not possible for Customs to observe it. In that case, the said authorities shall inform the applicant before the expiration of the time limit specified above, stating the reasons for the extension as well as the further time limit which they consider necessary to decide on the application.
4. If there is no decision within a maximum period of thirty (30) days, the request is considered tacitly rejected.
5. Prior to the decision of Customs, the person concerned shall be notified in writing for a prior hearing.
6. The decisions referred to in the preceding paragraph are, in particular, those relating to questions on:
 - a) The annulment, suspension, cancellation, revocation or amendment of a prior decision, or of any license or authorization issued under customs legislation;

b) The amending settlement of a customs declaration pursuant to article 169, where it requires the payment of new or additional customs duties or taxes; or

c) The imposition of an administrative penalty.

7. If the decision is rejected, the applicant shall be notified in writing and the notification should include a justification of the grounds for refusal and the related right of appeal.

8. The Customs decision shall take effect after the expiration of the time limit for appeal in accordance with this Code.

Article 65

Annulment and revocation of customs decisions

1. Any decision favourable to the person concerned shall be annulled if it has been made on the basis of inaccurate or incomplete information and if:

a) The applicant was aware of, or could reasonably have been assumed to be aware of this

inexact or incomplete character;

b) The decision could not have been made on the basis of exact and complete elements.

2. Without prejudice to the grounds for revocation of specific decisions set forth in other articles of this Code, the Director-General may at any time revoke a decision previously issued when he/she determines that such decision does not comply with or is inconsistent with the proper implementation of customs legislation.

3. The annulment of the decision shall be communicated to the addressee of that decision.

4. Annulment shall take effect from the date on which the annulled decision was delivered.

Article 66

Previous decisions

1. On the basis of a request made by the person concerned, Customs may make a prior decision regarding tariff classification, the country of origin of the goods or any other matters that the Director-General may determine.

2. There shall be no prior decision when the application:

a) Concerns an ongoing or already completed customs transaction, or

b) Presents a pending question in court and where Customs or any of its officials are a party.

3. A prior decision issued by Customs shall bind it and the applicant in relation to the matters contained in the decision.

4. It is incumbent upon the Director-General to lay down the necessary requirements for the issuance of prior decisions under this article, including:

a) The format, content of the application and the method of application of a decision;

b) Any documents or information required to support the application;

c) The period of time during which the decision is valid.

5. Prior decisions shall be cancelled at any time if it is established that they were issued on the basis of inaccurate or incomplete information provided by the applicant.

CHAPTER III

ON CLAIMS AND APPEAL AND ON ITS REVIEW

Article 67

Claims and appeals against decisions of customs authorities

1. The holders of subjective rights or legally protected interests who consider themselves wronged by the administrative act have the right to claim or file a hierarchical or protective appeal against acts and decisions taken by the customs authorities in the exercise of their powers.

2. Whoever has requested a decision from the customs authorities and has not got it within thirty (30) days, also has the right to appeal.

3. The claim is addressed to the author of the act, who can reformulate it.

4. The hierarchical resource is directed to the highest hierarchical superior of the author of the act unless the competence for the decision is delegated.

Article 68

Claims

1. All acts and administrative decisions arising out of customs activity may be claimed, whenever the party concerned does not agree with it, within fifteen (15) days from the date of knowledge of the act or notification of the decision.

2. Complaints regarding the collection of duties and other charges may be made within a maximum of one (1) year after the release of the goods.

3. Complaints must be addressed in writing to the Director of Customs or to the Minister, in agreement with the author of the act or decision claimed.

Article 69

Resources

There are two types of appeal from Customs decisions:

a) The administrative appeal addressed to the Minister, which falls on customs decisions or on the final decision of the Director-General regarding a complaint;

b) In the course of a customs litigation process, the judicial appeal is made to the competent court and falls on the final decision of the Director-General and that of the Minister.

Article 70

Decisions and acts admitting claims and administrative appeal

1. Decisions or acts made by Customs that are subject to claims and administrative appeal are, in particular, the following:

- a) Settlement or amending settlement of customs duties and other charges on goods, including all conclusions or determinations underlying tariff classification, country of origin and customs value thereof;
- b) Imposition of an administrative sanction;
- c) Rejection of a request for a prior decision, or any authorization or license provided for in the customs legislation, or the revocation, suspension, alteration or annulment of a prior decision, as well as an authorization or license;
- d) Total or partial refusal of an application for drawback, or for repayment of customs duties or other charges;
- e) Notification of the justification for the delay in the release of goods pursuant to article 168;
- f) Seizure of goods.

2. For the purposes of the preceding paragraph, Customs are expressly obliged to render a decision on the filing of any request.

Article 71

Warranty in case of the appeal

When the contested decision concerns an act for the settlement of a customs debt or for the payment of a fine and, where appropriate, for other pecuniary penalties, the applicant must guarantee the amount of the customs debt by way of deposit or bond.

Article 72

Complainant or applicant

A claim or an administrative appeal may be lodged *inter alia* by:

- a) A person whose liability to pay customs duties or other charges or subject to a given administrative penalty results from or is affected by a decision under article 70;
- b) A person in respect to whom, or whose request has given rise to a judgment given on the basis of article 70.

Article 73

Interposition and processing of the administrative appeal

1. The administrative appeal is filed in accordance with the stipulated, upon presentation of an application, which shall state all the grounds of the appeal, may the documents deemed convenient be appended.

2. The time limit for filing an appeal is thirty (30) days after notification of decisions, counted from:

- a) The date on which the debtor is notified of the customs debt in respect to decisions described in article 70 1) a) or b);
- b) The date on which the interested party is notified of the decision with respect to which the appeal is filed or of the deadline for a decision, in all other circumstances.

Article 74

Review of the administrative appeal

1. The administrative appeal is addressed to the highest hierarchical superior of the author of the act unless the authority for the decision is delegated.
2. The application for filing an appeal may be made to the author of the act or to the authority to which it is addressed.
3. Upon receipt of the administrative appeal, the competent authority shall review the contested decision:
 - a) He/She confirms the decision;
 - b) He/She amends or annuls the decision and takes the necessary measures, as a result of which these amendments prove appropriate.
4. The Director-General shall ensure that the customs official or department delegating his/her powers under this article is independent of the customs official or department which issued the contested decision.
5. If the decision on the appeal is a decision of the Director-General, the appeal shall be reviewed and decided by the Minister.

Article 75

Tacit rejection

When the competent body responsible for the appeal does not notify the applicant of the outcome of the review within thirty (30) days from the date on which the administrative appeal was filed, the decision under review shall be deemed to have been confirmed, for the purposes of the exercise by the applicant of any administrative or judicial rights of appeal stipulated in the law, in the face of decisions issued by Customs.

Article 76

Definitive nature of decisions

1. Customs' decisions referred to in paragraph 1 of article 70 are definitive and enforceable

unless an administrative appeal is filed under this Chapter, or an appeal against the tacit rejection is filed in the competent administrative or judicial court within the time limit stipulated in accordance with applicable legislation.

2. When the judgment on appeal to an administrative or judicial court is final, a copy of that judgment shall be sent to Customs, which shall act accordingly.

Article 77

Effects of appeals

1. The obligation to pay customs duties, other charges or administrative sanction is not suspended with the filing of an administrative appeal, referred to in this Chapter, however, when the imposition of an administrative penalty is subject to appeal, Customs may allow the provision of a deposit *in lieu of* payment, as long as the final decision on the appeal is pending.

2. If the contested decision is amended or modified, customs shall immediately reimburse or refund any customs duties, other charges or administrative penalties which have been levied in excess.

TITLE V

REGISTRATION OF PAYMENTS AND EXCHANGE OF INFORMATION

CHAPTER I

ELECTRONIC RECORDS AND PAYMENTS

Article 78

Electronic documents

This Title governs the validity, effectiveness and probative value of electronic documents within the scope of this Code.

Article 79

Registrations and payments

1. It is the responsibility of the Director-General, through a notice published in the Official Gazette, to approve:

- a) Documents required or established by customs legislation which may be transmitted through a stipulated electronic record;
- b) Payments required or established by customs legislation which may be made through a stipulated electronic format;
- c) Customs information system for which such documents may be transmitted, or by means of which such payments may be effected.

2. The electronic transmission of documents, or the payments indicated in the previous paragraph, are subject to authorization by the Director General, according to article 80, or other conditions that may be stipulated.

3. The Director-General may determine that the documents or payments referred to in paragraph 1 of this article be transmitted in electronic form, without prejudice to any exceptions that may be stipulated.

Article 80

Authorization

1. Any person to whom customs legislation requires the submission of documents or the payment referred to in the previous article, provided that he/she fulfils the stipulated eligibility criteria, may request in writing to the Director-General authorization to submit such documents or to carry out such payments via electronic format.

2. If the applicant under the preceding paragraph meets the criteria mentioned therein, the Director-General shall, in writing, grant the requested authorization, subject to conditions as he/she may impose at any time.

Article 81

Submission of documents

For the purposes of customs legislation, if a person files or otherwise submits a document, or makes a payment in electronic form through a customs information system, in accordance with the prescribed conditions, the document or payment shall be deemed to have been submitted or effected in accordance with what is stipulated in the law, in the day and proper place.

Article 82

Subscription requirements

The electronic signature of the documents to be submitted under this Code and other customs legislation shall comply with the requirements imposed by the Director-General.

Article 83

Probationary Force

1. As long as it complies with the requirements set out in this Chapter, any electronically processed document satisfies the legal requirement in writing when its content is capable of being represented as a written statement unless another type of additional proof is not requested.
2. As a general rule, when any provision of the customs legislation requires a written registration, an electronic registration satisfies this requirement under this Chapter.

CHAPTER II

INFORMATION EXCHANGE

Article 84

Automated decisions and provision of information

When customs legislation provides for Customs to carry out a particular administrative act, its electronic registration, which is automatically generated by a customs information system, produces the same effects as those practised by customs officials.

Article 85

Access to customs computer systems

1. The customs computer system is housed in a dedicated field and under the exclusive control of Customs.
2. Access to and handling of any customs information system shall be authorized in accordance with article 80 of this Code.
3. Access to personal data or organizations involved in customs activities is restricted to duly authorized customs officials.
4. Customs officials who improperly access the customs computer system or abuse the data contained therein are subject to disciplinary proceedings if a more burdensome proceeding is not applicable.

Article 86

Technical requirements

It is the responsibility of the Director-General to determine:

- a) The way and the form by which electronic records are created, generated, sent, communicated, received and stored and the systems established for those purposes;
- b) If electronic records are to be electronically signed, what type of electronic signature is required, the way and form by which the electronic signature is to be affixed, and the identity of a person, or the criteria to be fulfilled by third parties so that in the name of that person, they may submit the document and facilitate the process;
- c) Control processes and procedures adequate to ensure the preservation, provision, integrity, security, confidentiality and audit of electronic records;
- d) Any other requirements for electronic records which are specific to the documents matching in accordance with customs legislation.

TITLE VI
EXTERNAL TRADE STATISTICS

Article 87
Customs Assignments

1. Customs ensure the collection of statistical data in respect of foreign trade operations.
2. The statistical collection is done through one of the copies of the Single Administrative Document (SAD).
3. In cases where the customs declaration is made verbally and resulting in the payment of customs duties and other taxes, Customs shall process the appropriate statistical document.
4. The competent customs department shall prepare, by the last day of each month, the external trade statistics for the previous month.
5. The annual external trade statistics shall be published by the end of the first quarter of the following year.

TITLE VII
CUSTOMS SYSTEM
BASIS FOR THE SETTLEMENT OF TAXES AND CUSTOMS DUTIES
CHAPTER I
CUSTOMS TARIFF
TARIFF CLASSIFICATION AND TAXATION OF GOODS

Article 88
Customs Tariff

1. The Customs Tariff, which is based on the Harmonized Commodity Description and Coding System referred to in article 90, includes the rates of customs duties on goods.
2. Depending on the requirements of international trade, national developments in the

Customs Tariff may continue to be made.

3. It is the responsibility of the Minister to authorize the introduction into the text of the Customs Tariff of any updates to the Convention on the Harmonized Commodity Description and Coding System adopted by the World Customs Organization.

4. In addition to the customs duties set forth in the Customs Tariff, Customs shall also collect the other taxes and customs duties whose collection has been legally committed to them.

Article 89

Tariff classification and taxation of goods

Goods imported into or exported from the customs territory are subject to the taxes entered in the Tax Law, according to the classification assigned to them by Customs, in accordance with the Customs Tariff of Timor-Leste.

Article 90

Publication of Customs Tariffs

1. It is the responsibility of the Minister to have the Timor-Leste Customs Tariffs published.

2. The Timor-Leste Customs Tariffs include:

a) The Merchandise Nomenclature, in accordance with the existing text of the International Convention on the Harmonized Commodity Description and Coding System of the Harmonized System of 14 June 1983 and the amendments and the Explanatory Notes thereto;

b) The subdivisions of the Harmonized System established by the Director-General;

c) The Preliminary Instructions, additional sections and chapter notes or footnotes relating to such subdivisions;

d) Customs duties on import and export, taxes, exemptions and suspensions under the current Tax Law and other laws of Timor-Leste relating to the Harmonized System product group or any subdivision included;

e) Units of measurement of commodities which the Director-General establishes for statistical purposes.

Article 91

Changes to the Customs Tariffs

It is the responsibility of the Director-General to propose changes to the Customs Tariffs whenever it proves necessary, taking into account:

a) Implementation of any international obligations on binding tariffs and trade for Timor-Leste;

b) Implementation of an international agreement to which Timor-Leste is a party or any

amendment to that agreement;

c) Amendments to the terminology used in international customs tariff and trade instruments, mechanisms or procedures applicable to international trade;

d) Incorporation of new customs duties on import or export, or changes, rates and exceptions established by law.

CHAPTER II

SPECIAL PROVISIONS

Article 92

Tares

1. It is considered external tares, in addition to the outer casing, those which, covered by or contained within that casing, contain the goods as a whole, provided that they do not package separately into plots goods contained in the total volume.

2. It is understood for tariff purposes, the set of casings and materials which at the time of dispatch accompany the goods and are necessary for their packaging or better safekeeping during transport.

Article 93

Non-standard tares

1. Tares of unusual use of a different nature or value greater than those customarily used in the wrapping of goods are taxable as goods and subject to the respective customs duties and other charges.

2. The value of the tares that contain goods shall be included in the customs value of the goods themselves, when the said tares are those customarily used and as such do not have a specific tariff classification in the Customs Tariff (PAT).

CHAPTER III

ORIGIN OF GOODS

Article 94

Country of origin

1. For the purposes of the application of customs legislation, goods wholly obtained in a country are considered as originating in that country.

2. It is considered "goods wholly obtained in a country":

- a) Mineral products extracted in that country;
- b) Products of the vegetable kingdom harvested therein;
- c) Live animals therein born and reared;

- d) Products obtained from live animals reared therein;
- e) Hunting and fishing products therein;
- f) Products of sea fishing and other products are taken from the sea, outside the territorial sea of any country, by vessels enrolled or registered in that country and flying its flag;
- g) Goods obtained on board factory ships from products referred to in subparagraph f) originating in that country, provided that such factory ships are enrolled or registered in that country and fly its flag;
- h) Products extracted from the soil or marine subsoil located outside the territorial sea, provided that that country exercises, for the purpose of exploitation, exclusive rights to such soil or subsoil;
- i) Wastes and scraps resulting from manufacturing operations and non-use items, provided that they have been collected and can only be used for the recovery of raw materials;
- j) Those obtained exclusively from the goods referred to in subparagraphs a) to i) or derivatives thereof, irrespective of their stage of manufacture.

3. For the purposes of applying the preceding paragraph, the concept of the country also covers the territorial waters of that country.

4. When the production of goods involves two or more countries, the goods shall be deemed to originate in the country where they have last undergone a substantial transformation.

Article 95

Proof of origin

1. When the origin of the goods is indicated in the customs declaration, Customs may require the declarant to prove the origin of the goods. In the event of suspected fraud, Customs may require the declarant to provide documentary evidence of origin issued by the competent authorities of the country of origin.

2. The origin of the goods shall be justified on presentation of a certificate of origin or equivalent document.

3. Notwithstanding the presentation of this document, Customs may, in cases of reasonable doubt, require additional means of proving the origin of the goods to be presented.

4. In the case of goods received by post, proof shall be given by seals or stamps affixed to the packages or to their respective documentation.

Article 96

The exception to proof of origin

1. The following cases shall be exempted from the presentation of documentary evidence of origin:

- a) Goods dispatched in small consignments to private persons or contained in travellers'

luggage provided that the imports are of a non-commercial nature and the total value of the importation does not exceed US\$ 100;

- b) Goods subject to commercial remittances whose total value does not exceed US\$ 60;
- c) Goods under the temporary importation procedure;
- d) Goods transported under the customs transit procedure.

2. When several consignments referred to in subparagraphs a) or b) of the preceding article are simultaneously sent by the same route, to the same recipient, by the same sender, the total value of such consignments constitutes the total value, for the purposes of determining the presentation of documentary evidence.

CHAPTER IV

VALUE OF GOODS FOR CUSTOMS PURPOSES

Article 97

Transaction Value

1. The customs value of the goods is the transaction value, i.e. the price actually paid or payable for the goods when they are sold for export to the country of importation, possibly after adjustment in accordance with the following article.
2. In cases where the value of an imported good indicated on the invoice is less than the fair market value of that good, customs authorities may calculate the fair market value of the transaction by reference to the value of similar transactions between parties operating on a commercial basis.
3. For the purposes of determining the customs value of goods imported into Timor-Leste, the freight, insurance and other expenses are included in the respective FOB value.

Article 98

Customs value of imported goods

The customs value of the imported goods is determined on the basis of the principles set out in Table 1 annexed to this Code.

Article 99

Customs value of exported goods

The customs value of exported goods is the price at which such goods or similar goods are sold or offered for sale at the time of export in the course of ordinary trade operations under

absolute conditions of competition, including the cost of transport to the port or place of export.

Article 100

Conversion rate

1. When it is necessary to convert currency to determine the customs value, the conversion rate to be used shall be the last to be disclosed by the competent authorities.
2. The conversion rate to be used shall be that in force on the date of acceptance of the customs declaration.

Article 101

Administrative penalty for an incorrect declaration of the customs value

Any person who declares an incorrect customs value, resulting in payment less than customs duties and other charges due, shall be subject to an administrative penalty.

TITLE VIII

ENTRY AND EXIT OF MEANS OF TRANSPORT

CHAPTER I

GENERAL PROVISIONS

Article 102

Place of entry

1. Entry of means of transport from outside may only take place in places previously approved by Customs.
2. As regards the control of means of transport and of goods, Customs is the primary authority responsible for carrying out its supervision.

Article 103

Registration of means of transport

1. Registration is compulsory, to be made at the competent customs office, of all entrances and exits of the commercial means of transport on arrival or departure from the customs territory.
2. Registration shall be organized by type of transport for each calendar year and in numerical sequence starting from number one in each of the customs offices competent for that purpose.

3. Entrance registration of motor vehicles of passengers and goods intended for release for consumption shall be done at the Customs territorial arrival office which, after the allocation of an entrance registration number, shall issue a movement guide, in quadruplicate, valid for sixty (60) non-extendable days.

4. The provisions of the preceding paragraphs shall apply *mutatis mutandis* to recreational craft.

CHAPTER II

ENTRY OF MEANS OF TRANSPORT

Article 104

Advanced Transport and Cargo Declaration

1. The person responsible for transportation arriving in the territory of Timor-Leste shall submit a declaration in the format, manner and time limits stipulated by the Director-General, which shall include the following data:

a) Probable date of arrival;

b) The trip made;

c) Crew and passengers, where applicable;

d) The declaration of the cargo of all the goods brought to Timor-Leste, whether they are destined to be unloaded or not;

e) The customs office or free zone in which the transport is to enter.

2. The owner or operator of the transport referred to in the previous paragraph, or the agent thereof must submit the required declaration according to the stipulated in paragraph 1 of this article, on behalf of the person in charge of the transport.

3. The Director-General may make exceptions to the requirements set out in this article, taking into account the modes of transportation, types of operators or transportation, or other considerations relating to the risk or types of transactions involved.

Article 105

Communication of arrival of vessels

In the case of vessels coming from abroad, shipping agents are obliged to inform Customs in writing and at least twenty-four (24) hours in advance of the estimated time of their arrival, their origin and destination, the customs office or free zone where it will arrive, the cargo, whether it is intended to be unloaded in Timor-Leste or not, and if applicable, the number of passengers.

Article 106

Customs visit

1. Customs entrance visits shall take place whenever Customs deems it convenient and all vessels and aircraft, whether trade or any other, are subject to them.
2. Without prejudice to the customs visit prescribed in the preceding paragraph, Customs may make other visits to other places or establishments whenever they deem it convenient or necessary.
3. The entrance customs visit may be held separately or jointly with the other competent authorities, being that Customs shall always be the first authority to enter on board.
4. The placing of customs officials on board of means of transport for the purposes of permanent surveillance shall be determined by Customs whenever they deem it necessary or the person responsible for the means of transport or their representative so requests.

Article 107

Entry of merchant ships

1. At the time of the customs visit, the captains or masters of the vessels or their port agents shall deliver to Customs, without prejudice to their subsequent electronic submission, a declaration stating:

- a) The name of the vessel;

- b) The nationality of the vessel;
- c) The name of the captain or master;
- d) The tonnage;
- e) The ports of origin;
- f) The number of crew members;
- g) The number of passengers to the port and the number of passengers in transit;
- h) The description of the cargo;
- i) What flammable or explosive species it carries and in what quantity;
- j) The commercial operation to which it is destined in the port or, not being destined to commercial operation, the reasons for the entrance;
- k) The number of mail bags and their origin;
- l) The identification of the consignee;
- m) In case of bringing weapons, indicate their number and quality.

2. Manifest, for each origin, of the cargo destined to the port accompanied by a set of copies of bills of lading.

3. List of volumes of commercial samples and unmanifested parcels.

4. List of volumes constituting estate accompanied by the respective inventory.

5. List of supplies and spare parts, including tobacco intended for crew consumption and consumption on board.

6. Manifest of cargo in transit.

7. Declaration on the existence of goods intended for sale on board.

8. Declaration on the luggage of crew members disembarking in port, authenticated by the captain or master of the vessel.

9. The copies of the knowledge referred to in paragraph 2 shall include the marks, number and kind of packages, the generic name, weight and value of the goods, as well as the date and port of loading.

10. List of passengers to be disembarked, duly identified, and individual list of luggage with a breakdown of hold luggage and cabin luggage.

11. If the captain or master of the vessel cannot deliver, at the time of the customs visit and for reasons of *force majeure*, the documentation referred to in the foregoing paragraphs he/she shall have a time limit of four hours to do so at the competent customs office.

12. Customs officials conducting the customs visit shall:

a) Annotate the irregularities detected by preparing the respective report, if those constitute

an infraction provided for in the legislation in force;

b) If they find out that any means of transport or goods were used in the commission of a customs infraction resulting in confiscation, they are seized, being at the custodian of Customs until the final decision of the process, according to the norms of this Code.

c) Authenticate, date and sign the manifests of cargo, after the captain or master of the vessel or its port agent have done so;

d) Release the vessel for free circulation after completion of the formalities.

13. At the time of delivery of the documents referred to in the foregoing paragraphs, the captain or master of the vessel may make such declarations as he/she deems convenient, on the cargo manifested that he/she:

a) Has consumed;

b) Has sold;

c) Has doubts on whether it lacks or increases.

14. The volumes of commercial samples and unmanifested parcels, as well as declared estates, are unloaded with the remaining goods for presentation to Customs.

15. Tobacco, alcoholic beverages and other sensitive goods in excess of the quantities allocated to each crew member are sealed in the vessel's compartment under the responsibility of the respective captain or master and the seals shall not be withdrawn before the vessel leaves port.

16. Bar or port pilots consider themselves representatives of the customs authorities until their entry on board for the purpose of finding violations of the legal provisions.

Article 108

Manifest delivery

1. Without delay and within two (2) days of the date of entry, captains or masters of vessels or their agent in port shall submit electronically the manifest translated into one of the official languages, if required.

2. The presentation prescribed in the preceding paragraph shall be made at the customs office of the port of entry.

Article 109

Ships in transit

Goods carried on transit ships shall always be declared by the captain or master of the vessels to the customs office of the port of transit, which shall carry out checks on the operations of landing and re-loading of the goods and shall keep them under permanent supervision.

Article 110

Liability for manifested goods

1. The captain or master of the vessel is responsible for the quantity of volumes declared in the manifest and shall ensure that there is no discrepancy between this and the bills of lading.
2. Goods not included in the manifest presented in accordance with the rules of this Code shall be declared lost in favour of the State by order of the Director-General.

Article 111

Missing Goods

1. In the event of a lack of volumes, the captain or master of the vessel shall declare in writing at the time of the customs visit or within twenty-four hours (24) after free circulation, the quantity, the quality, the origin, the destination of the packages and the reasons for their missing.
2. Failure to comply with the provisions of the preceding paragraph shall be considered misappropriation of customs duties, punishable under the law.

Article 112

Correction of information regarding the transport and cargo declaration

Customs shall allow the person responsible, the owner, the transport operator or the agent to correct the declaration made under article 104 by submitting a replacement or supplementary declaration unless:

- a) The person responsible, the owner, the transport operator or the agent has been informed by
Customs that the goods are to be subject to customs verification;
- b) Customs has already verified that the information concerned is incorrect;

c) The removal of the goods from the place of arrival has been permitted; or

d) The deadline for the submission of a final cargo check, in accordance with article 134, has already been expired.

Article 113

Presentation of goods and passengers at Customs

1. The person responsible for the means of transport shall not engage in or permit the mooring of a vessel or the landing of an aircraft at a place other than a customs office or a free zone which, in the case of ships or airplanes to which the article 104 shall apply, shall be the customs office or free zone declared by the person in accordance with that article, when:

a) Arriving in Timor-Leste from abroad, or

b) Carrying passengers or goods and has not yet cleared the customs for import.

2. Anyone who imports or is somehow involved in the import of goods by vessels or aircraft may only carry the goods to a customs office or a free zone.

3. The person responsible for a vehicle or vessel entering Timor-Leste by land or by sea should go to the customs office nearest the place where he/she crossed the border, according to the routes established and approved by Customs.

4. The person referred to in the previous paragraph may request Customs to go to a place other than a customs office or a free zone, and Customs may permit according to the conditions determined.

5. After entering Timor-Leste, the mean of transport may not depart from the customs office or free zone until notification of arrival, in accordance with article 115 of this Code, has been made, unless authorized to do so by Customs.

6. A dockworker or other person transporting the goods after their introduction into the customs territory, in particular after the transfer of the goods, shall be responsible for complying with the obligations set out in this article, being those obligations subject to the control measures stipulated by the Director-General.

Article 114

The impossibility of presentation of goods to Customs

1. When, due to *force majeure*, it is not possible to comply with the provisions of the following article, the person responsible for compliance with this obligation or his/her representative shall inform Customs immediately. In cases where it does not result in a total loss of goods, Customs shall be informed of the exact place where the goods are.
2. Customs shall determine the measures deemed necessary to ensure the control of the goods referred to in the preceding paragraph and ensure that they are transported to a customs office or other place designated by them.
3. In the circumstances described in paragraph 1 of this article, the person responsible for transportation shall reimburse the State in accordance with the values established by the Minister, for the cost of assistance rendered by customs officials and other State services, including the costs of compensation due or expenses incurred by these officials.

Article 115

Notification of arrival of goods

1. The person transporting the goods into the customs territory or, when applicable, the dockworker or another person responsible for transporting the goods after entry into the customs territory, shall notify Customs of their arrival in accordance with the customs legislation.
2. Notification of the arrival of the goods shall take place immediately upon arrival at the customs office or free zone at the first place of entry into Timor-Leste or any other place designated or approved by Customs.
3. The person responsible for notifying the arrival of the goods shall:
 - a) When required by Customs, deliver the cargo manifest, bill of lading or freight bill or copy thereof for each part of the cargo or goods loaded or on board, passenger and crew list, logbook and any port clearance, registration or other port document issued in respect of such transport at the place of provenance;
 - b) Provide all the information requested by Customs on transport, goods transport, crew and travel;
 - c) Comply what has been determined by Customs regarding the location or movement of

the

transportation, unloading of merchandise and landing of the crew or passengers.

4. When the documents referred to in the preceding paragraph are in a language other than the official languages, Customs may require the presentation of a certified translation of such documents within a period to be specified by them.

CHAPTER III

DEPARTURE OF THE MEANS OF TRANSPORT

Article 116

Departure permit

1. Except as otherwise provided by customs legislation, no vessel or aircraft may depart from a port or airport in Timor-Leste unless Customs authorizes them to leave.
2. The request for a departure permit shall be made by the person responsible for the means of transport, or his/her authorized agent, in the manner stipulated by the Director-General, and shall be accompanied by the documents relating to transportation, crew, cargo, depots and port of destination.
3. The persons mentioned in the previous paragraph may only allow the displacement of the means of transport to the places mentioned in the request for departure permit.

Article 117

The release of goods and passengers

1. The embarkation of passengers or goods on board a vessel or aircraft subject to release authorization shall not be permitted:
 - a) Unless it is from a customs office or area under customs control for that purpose, or in a free zone;
 - b) Before the request for release of the vessel or aircraft has been made;
 - c) Until a customs declaration subjecting the goods to a customs procedure has been made, when required by this Code;

d) Outside the official opening hours; or

e) Without the permission of Customs.

2. The Director-General may, whenever duly justified and subject to the conditions and restrictions stipulated by him/her, allow passengers and goods referred to in the preceding paragraph, that are already or may be embarked on a vessel or aircraft, to do so outside the official time or place designated as customs office or area under customs control.

3. In duly substantiated exceptional cases, the Minister responsible for Customs may, after consultation with the Minister responsible for regulating civil aviation in Timor-Leste, allow the landing or take-off of an airplane, other than a customs office, in a place designated by him/her.

4. In the cases referred to in paragraphs 2 and 3, the person responsible for the means of transport or the agent shall reimburse the State, in accordance with the values stipulated by the Minister, for the cost of using such facilities, including the costs of the compensation due, or the costs incurred by customs officials and other competent authorities involved.

5. The provisions of this article shall apply *mutatis mutandis* to land-based means of transport.

Article 118

Goods for export not shipped

Whenever goods declared for export do not embark, the person responsible for the means of transport shall notify Customs immediately.

Article 119

Disembarkation of goods

Unless otherwise provided, no goods which have been placed on board a vessel or aircraft for export, or to be used as ship's stores, shall be re-unloaded without the permission of Customs.

Article 120

Refusal or revocation of the departure permit

1. Customs may at any time refuse a vessel or an aircraft to leave in order to ensure compliance with customs legislation when the departure permit has already been granted, provided that they have not yet begun to move, thereby revoking the departure permit.
2. Notification of such revocation shall be communicated orally or in writing to the person responsible for the vessel or aircraft and, if made in writing, shall be delivered:
 - a) Personally;
 - b) On board the vessel or aircraft to the person responsible for it; or
 - c) To the agent of the vessel or aircraft at the port of departure.
3. When there is a revocation of the departure permit, this one becomes null.

Article 121

Departure deadline

The departure permit granted under this Chapter shall be considered void when the vessel or aircraft does not leave the port or airport within twenty-four (24) hours after the issuance of the same.

Article 122

Cargo Manifest and Passenger List

Within a maximum period of four (4) days from the date of the departure permit of the vessel or aircraft under this Chapter, the person responsible or his/her authorized agent shall deliver to the appropriate customs office at the port or place of departure, or closer to that location, a cargo manifest of all the goods loaded on the means of transport destined for export, as well as a list of embarked passengers.

CHAPTER IV

ENTRY AND DEPARTURE OF AIRCRAFT

Article 123

Customs visit

Whenever they deem it necessary, Customs shall carry out the customs entrance visit, which shall take place immediately after the landing of the aircraft.

Article 124

Delivery of manifest

1. The cargo manifest and the air waybills for the goods shall be presented to the customs authorities within three (3) hours after the landing time of the aircraft.
2. The provisions of articles 132 et seq. shall apply to aircraft, with due adaptations.

CHAPTER V

MISCELLANEOUS PROVISIONS

Article 125

Procedure for a stay of vessels and prohibition of sale on board

1. Except in cases of *force majeure* duly proven and accepted by Customs and without prejudice to the conventional provisions in force, foreign merchant and recreational vessels, remaining in the country for more than one year, shall be subject to temporary importation upon expiration of that period.
2. During the stay of vessels in ports, the sale on board of any type of goods shall be prohibited, and the customs authorities may, if they deem it appropriate, seal the compartments where the goods are stored or may be sold.

Article 126

Shipment of goods for own consumption

The goods shipped for consumption on board a vessel will be submitted for the export declaration, and can only be consumed after the vessel receives the departure permit.

CHAPTER VI

LINERS, WARSHIPS AND RECREATION VESSELS

Article 127

Privileges

1. Liners, warships and recreation vessels shall enjoy the following privileges:

a) The possibility of mooring, regardless of Customs license, provided they do so in the places

that are usually determined to them;

b) Preference in the issue of departure permits.

2. Masters of national warships coming from foreign ports shall present at the customs office of the port where they moor a declaration stating:

a) The name of the vessel;

b) The name of the master;

c) The port of origin;

d) The number of crew and officers;

e) The number of cargo volumes belonging to the State;

f) The number of cargo volumes belonging to private individuals;

g) The number of passengers;

h) The number of luggage volumes belonging to the crew, including officers;

i) The number of luggage volumes belonging to private individuals.

3. If the vessel carries cargo, the respective manifests shall be submitted separately.

4. The luggage of officers and petty officers of warships, as well as those of accompanying family members coming from foreign ports and the goods subject to duties, shall appear on a list drawn up and certified by a ship's officer to be presented at the nearest customs office, which shall conduct its examination and check.

5. Failure to comply with the provisions of the preceding paragraphs shall be communicated, for disciplinary purposes, to the competent naval military authorities.

6. Undeclared goods shall be deemed to be misappropriated and subject to the provisions applicable to customs violations.

CHAPTER VII

LOCAL TRAFFIC VESSELS

Article 128

Mooring Place

When deemed convenient, Customs may agree with the maritime authorities on the designation of anchorage for local traffic vessels.

Article 129

Mandatory documentation

Local traffic vessels carrying any type of cargo, passengers or crew, must be accompanied by a cargo waybill and a list of passengers or crew, issued at the origin and submitted to Customs or, in the absence of the latter, to the nearest authority.

Article 130

Cargo transfer

1. When a local traffic vessel has received cargo from another vessel and wishes to transfer part of that cargo to another vessel for the purpose of being unloaded elsewhere, the master or the owner of the cargo shall apply to the customs authorities accordingly, the extraction sheet being processed for the transferred load and that circumstance recorded in the original unloading waybill.

2. The transfer of the cargo from one vessel to another shall be checked and carried out under the supervision of customs inspectors, who will accompany the vessel to its destination unless another procedure is decided.

Article 131

Sealing

1. Vessels may be subject to a customs visit during or after unload operations.
2. When, with respect to any volume or part of the cargo or compartment of the vessel, the customs visit cannot be carried out to the satisfaction of Customs, the volumes, cargo and compartments shall be sealed in order to ensure effective subsequent control.

CHAPTER VIII

UNLOAD AND CHECK OF GOODS

Article 132

Unload authorization

1. The goods may only be unloaded or transhipped from the means of transport in which they are under the authorization of Customs and at the places designated for that purpose and cannot do so, as stipulated in article 105:
 - a) Prior to arrival notification;
 - b) Outside the customs area authorized for that purpose;
 - c) Outside the official hours of operation;
 - d) Without permission of Customs;
 - e) Except for immediate storage in an area under customs control, for temporary storage at the port of arrival.
2. The requirements set forth in the preceding paragraph shall not apply in case of an imminent danger that requires immediate or total unload of the goods. In such cases, Customs shall be informed promptly.
3. Except as otherwise authorized by the Director General, goods unloaded from a ship to another vessel at the customs office shall be immediately removed and landed in an area

under customs control authorized for that purpose or at another location designated by the Director-General.

4. The Director-General may when duly justified and in accordance with such conditions and restrictions as he/she deems necessary, allow exceptions to the provisions of paragraph 1 of this article.

5. Customs may at any time require the unloading and unpacking of the goods in order to ensure their control, as well as the control of the means of transport in which they are located.

Article 133

Prohibition of change of location of the goods unloaded

After the unload, the goods cannot be removed from the place where they were initially placed without the authorization of Customs.

Article 134

Unload check

1. The person responsible for the ship or aircraft or his/her authorized agent shall submit to Customs a final loading check of all goods unloaded from the means of transport.

2. The final cargo check must:

- a) Specify the goods included in a cargo declaration which have not been unloaded and, if there are no goods in this situation, a declaration to that effect;
- b) Specify any goods not included in the cargo declaration which have been unloaded and, if there are no goods in this situation, a declaration to that effect.

3. The request for final cargo check must be submitted:

- a) In the case of goods unloaded from a vessel, within five (5) days of the completion of the unloading of the vessel,
- b) In the case of goods unloaded from an airplane, within twenty-four (24) hours from the landing of the airplane, or within such other time limits as may be stipulated.

4. Customs shall appoint officials to check the declared goods for unloading. Once unloading is completed, the checker will prepare an unload report that includes, in particular:

- a) The identification of the means of transport;
- b) The trade description of the goods, their provenance and origin;
- c) The number of packages and the weight of the goods unloaded.

5. In case of non-compliance with customs legislation, communication shall be made to the customs office supervisor, who shall prepare a report. If goods whose import is by law prohibited are found, they shall be seized and placed in the custody of Customs until the competent authority determines the destination to be given to them.

6. The unloading report and the communication must be dated and signed by the checking officer and authenticated with Customs stamp, a copy of them being attached to the report.

7. The Director-General shall stipulate the cases in which the requirements for the final cargo check may be exempted or adapted, as well as the conditions for such waiver or adaptation.

Article 135

Cargo Load Check

The provisions of the previous article shall be applied, *mutatis mutandis*, to the shipment of the goods declared for export.

CHAPTER IX

PRESENTATION OF GOODS TO CUSTOMS

Article 136

Presentation of goods

1. Goods brought to a customs office shall be presented to Customs by the person who introduced them into the customs territory or, where appropriate, by the person responsible for transport after they have been brought into the customs territory.

2. The person who has introduced the goods into the customs territory and has not complied

with the obligation to submit the documents referred to in paragraph 1 shall be subject to an administrative penalty.

3. The person responsible for the means of transport who does not comply with the obligation to present the goods to Customs in accordance with paragraph 1 shall be obliged to pay the customs duties of the missing goods at the time of unloading whenever there is a causal link between the missing of the goods and the impossibility of customs control on grounds of non-compliance with the provisions of that article. In this case, the person responsible for the means of transport shall be subject to an administrative penalty.

4. The person responsible for the means of transport who does not comply with the obligation to submit the goods to Customs in accordance with paragraph 1 shall be subject to an administrative penalty when the number of volumes unloaded exceeds the number of volumes notified to Customs.

Article 137

Others required to be presented

The provisions of the preceding article shall not preclude the application of specific provisions concerning goods carried by travellers.

Article 138

The obligation to assign a customs-approved treatment

1. Goods presented to Customs shall be assigned one of the customs-approved treatment admitted for such goods.

2. The assignment of a customs-approved treatment shall take place within the following periods from the date of presentation of the goods to Customs:

a) Thirty days for goods arriving by sea;

b) Twenty days for goods arriving by any other route.

3. The provisions of the preceding paragraphs do not prevent the application of prohibitions or restrictions dictated by reasons of morality and public safety, protection of health and life of humans and animals, preservation of plants and environment, protection of artistic, historical or archaeological heritage or protection of industrial and commercial property.

CHAPTER X

TEMPORARY DEPOSIT

Article 139

Temporary deposit of goods

1. Until they are assigned a customs-approved treatment, goods presented to Customs shall remain in the temporary deposit.
2. The goods referred to in the previous paragraph may only be deposited in the places authorized by Customs and under the conditions established by them.
3. Customs may require the person in possession of the goods to provide a guarantee in order to ensure payment of the customs debt that may result therefrom.
4. Any person removing goods from areas under customs control prior to release shall be subject to an administrative penalty.

Article 140

Prior examination and taking of samples

Upon presentation to Customs, goods may, subject to prior authorization, be examined or withdrawn in order to classify them and to assign a customs-approved treatment, all expenses being borne by the declarant.

Article 141

Manipulations

1. Without prejudice to the provisions of the preceding article, goods in temporary deposit may only be subject to manipulations if they do not modify their presentation or technical characteristics.
2. Manipulations intended to ensure the unaltered preservation of the goods shall be permitted.

Article 142

Delayed goods

1. Customs shall take all necessary measures, including their sale, to regularize the situation

of goods in respect of which the formalities for the allocation of a customs-approved treatment have not been initiated within the time limits laid down in article 138.

2. Goods in temporary deposit shall be deemed abandoned in favour of the State when:

a) The fulfilment of the formalities for the attribution of a customs procedure is not fulfilled,

or an application for abandonment or destruction of the goods is not carried out, according

to the deadlines determined in article 157;

b) The release of the goods cannot be authorized because:

i. It has not yet been possible, for reasons attributable to the declarant, to check or continue the check of the goods within the period specified by Customs;

ii. Without prejudice to the provisional authorization under article 172, the supporting documents necessary for the attribution of the declared customs procedure have not yet been made available to Customs;

iii. The payments to be made or the guarantee to be given in respect of customs duties or additional charges did not occur within the stipulated period;

c) The goods have not been removed from the area under customs control within five (5) days of their release.

3. Customs may order the transfer of such goods at the risk and expense of the person in charge of them, to a place under supervision until their situation is regularized.

Article 143

Goods entered in an irregular situation

Without prejudice to the penalties laid down by law, where Customs finds that the goods have been unlawfully introduced into the customs territory or have not been subjected to customs control, they shall take the necessary measures, including their sale, to regularize the situation of those goods.

TITLE IX
ENTRY AND EXIT OF PASSENGERS

Article 144

Disembarkation of passengers and luggage

1. Passengers and members of the crew, craft or aircraft may disembark as soon as the means of transport has been released and may be accompanied by the luggage not shown in the manifest, which shall be taken to the places of inspection.
2. Luggage or any objects carried by travellers shall be subject to customs control.
3. Any person arriving in Timor-Leste other than by the means of transport mentioned in paragraph 1 of this article shall immediately report his/her arrival and present himself/herself together with the goods he/she transports to Customs, at the customs office at the place of arrival or nearer to that location, together with appropriate information about the transport in which he/she arrived.

Article 145

Luggage review and personal search

1. Customs proceeds to luggage review for the purpose of verifying the contents of the luggage checked or carried by travellers, as well as to personal search in order to verify the objects carried by the travellers on them or on their clothing.
2. The passenger is given the possibility of issuing an oral statement, which may be conveyed in written form in the determined manner and form.
3. Travellers' personal search shall only take place exceptionally and only when there are reasonable grounds for suspecting that a customs offence has been committed, and customs officials are under an obligation to avoid any embarrassment or remarks and also to minimize the inconvenience caused to travellers.
4. Officers checking the luggage may require travellers to present their passport or other

identification documents and the ticket, as well as invoices or other documents relating to the goods.

5. Passengers who carry goods with a commercial character in their luggage shall expressly inform Customs of this fact, the failing of which will impose an administrative penalty.

6. Whenever, while reviewing the luggage, Customs detects merchandise with a commercial nature, it shall separate their luggage in order to tax them.

7. In the event that goods in checked luggage are assigned a commercial nature, Customs shall retain them, proceeding to the respective separation of luggage in a separate form.

8. The customs authorities may require a written declaration by filling in a document to be stipulated by the Director-General for goods carried by travellers, in the case of an import or export of a commercial nature.

9. If goods that are prohibited by law are detected, they shall seize them and, where appropriate, detain the passenger.

10. The seized goods shall be deposited in the custody of Customs until the competent authority determines the destination to be given to them.

Article 146

Waiver of personal search

Without prejudice to agreements or other instruments of international law of which Timor-Leste is a contracting party, and of the content of the previous article with regard to luggage, the Government may, under certain circumstances, waive, by legal diploma, the personal search to certain national and international entities.

Article 147

Competence to dispatch manifested luggage

Any person may clear a traveller's manifested luggage, provided that he/she submits to the customs authorities the written declaration referred to in paragraph 8 of article 145, in order to clearly establish the fiscal responsibility of the same traveller.

Article 148

Application of fees

The goods and objects carried in travellers' luggage referred to in article 145 shall be subject to the rates of import duties in force, under the terms of the Tax Law, whenever they exceed the amount stipulated in the said law.

Article 149

Passenger departure

The provisions relating to the entry of persons into the territory shall apply, subject to exceptional circumstances which may be referred to in customs legislation.

TITLE X

TITLES DEEDS

Article 150

Definition of title deeds

The following shall be considered title deeds:

- a) The bill of lading for goods carried by sea;
- b) The air waybill for goods arriving by air;
- c) The commercial invoice, its duplicate or equivalent document, for goods transported by land;
- d) Other documents expressly accepted by Customs.

Article 151

Certification of origin

When, for the purpose of origin, the interested parties present bills of lading, in the case of the sea route, or direct air waybill, in the case of the airway, or, also, original invoice, in the other means of transport, the copies of such documents shall be duly verified, canceled and filed along with the manifest by the customs authorities, who shall return the original to the person concerned.

TITLE XI
CUSTOMS DECLARATION

CHAPTER I
NORMAL PROCEDURE

Article 152
Obligation to declare

1. Except for goods entering a free zone, and without prejudice to the provisions on abandonment or destruction under Customs supervision, all goods brought into the customs territory shall be declared by the importer through a customs declaration which may be made verbally, in writing or by a computer, in accordance with the following provisions.
2. All goods intended for export or exit from the customs territory shall be declared by the exporter and the provisions of the preceding paragraph shall apply in such cases.
3. In accordance with this article, the declaration shall be made on behalf of the importer or exporter of the goods, as the case may be, or by someone in his/her legal representation.

Article 153
Verbal declaration

Goods with no commercial value may be the object of a verbal declaration on import or export, upon authorization of Customs, when:

- a) Contained in travellers' personal luggage;
- b) Intended for or shipped by private persons;
- c) Intended for or shipped by other entities.

Article 154
Written declaration

1. The written customs declaration must be made in a form approved for this purpose by Customs and must be signed and contain all the necessary elements:

- a) Indicating the customs regime applicable to the goods;
- b) Declaring the tariff classification, country of origin and customs value of the goods in accordance with customs legislation;
- c) Providing other information, including the quantity and proper description of the goods, as stipulated.

2. The customs declaration shall be accompanied by all the documents, the presentation of which is necessary for the application of the declared customs procedure and the release of the goods.

Article 155

Electronic declaration

1. The electronic customs declaration shall consist of the transmission to the customs authorities by electronic means of all information or data necessary for the application of a customs procedure.

2. The information elements or data referred to in the preceding paragraph may be coded.

3. In electronic declarations, the identification code assigned to the declarant for the purpose of fiscal identification is valid as his/her electronic signature.

Article 156

Documents to be attached to the customs declaration

1. The documents to be attached to the customs declaration shall be those laid down by law for the application of the declared customs procedure, namely:

- a) Commercial invoice with a generic description of the goods and indication of its value;
- b) Documents necessary for the application of a preferential tariff regime or any other

derogatory measure of the general regime applicable to the declared goods;

c) Sanitary and phytosanitary certificates, certificates of quality or other;

d) Other documents necessary for the application of provisions governing the bringing of goods into consumption.

2. The customs authorities may require, at the time of delivery of the declaration, the presentation of the transport documents or the documents relating to the previous customs procedure.

3. In the case of a customs declaration for an economic regime subject to prior written authorization, a copy of the authorization shall be attached to the customs declaration.

4. In the case of a customs declaration of export or re-export, the documents necessary for the correct application of the applicable duties shall be attached.

5. In the case of an electronic customs declaration, the documents referred to in the previous paragraphs shall be delivered within the non-extendable period of twenty-four (24) hours after delivery of the declaration.

Article 157

Place of submission of the customs declaration

1. Customs declarations must be submitted to the customs office of arrival and subject to the following deadlines, as stipulated in article 138, from the date of notification of the arrival of the goods to Customs:

a) Thirty (30) days for goods arriving by sea;

b) Twenty (20) days for goods coming by other means.

2. The customs declaration may be submitted twenty-four (24) hours before the arrival of the goods.

3. Upon receipt of a customs declaration, according to the preceding paragraph, Customs may determine a deadline for the arrival of the goods, which shall not exceed forty-eight (48) hours.

4. When the notification of the arrival of the goods does not take place within the period provided for in the previous paragraph, the declaration is considered null and void.

Article 158

Effects of the declaration

1. Without prejudice to the application of the penalties provided for by law, the delivery of a customs declaration, signed by the declarant or his/her representative, shall be binding with respect to:

- a) The accuracy of the data or elements contained in the declaration;
- b) The authenticity of the documents attached;
- c) The fulfilment of the obligations inherent in the placement of goods to the declared customs procedure.

2. When a customs declaration is made by a representative on behalf of the declarant, the representative is also bound by the obligations described in paragraph 1 a).

3. The electronic customs declaration shall be deemed to have been delivered at the time of receipt of the message by customs, which shall acknowledge receipt by the same process.

4. When the customs declaration is made electronically, the release of goods, when exceptionally there is no verification of the goods, shall be notified to the declarant through a message containing at least the registration number of the declaration and the date of the release of goods.

Article 159

Acceptance of the customs declaration

1. Customs shall check the customs declaration and shall immediately accept it if all the formal requirements are met, if it has the necessary documents attached if the customs office is competent for its acceptance and the declarant is authorized to do so.

2. The customs authorities shall also ensure that the declaration is duly signed and all documents attached are duly initialled.

3. In the act of acceptance, Customs shall affix the serial number, date and time of acceptance to the declaration, and shall notify the declarant.

4. The date referred to in the preceding paragraph shall be considered to be the only relevant date for the application of all the provisions inherent in the customs procedure for which the goods are declared, in particular as regards the incurrence of the customs debt.

Article 160

Rectification of the customs declaration

1. Upon acceptance of the customs declaration, the declarant shall be authorized to amend it only upon duly substantiated request and upon presentation of a new declaration.

2. No change may result in the incidence of declarations on goods other than those originally declared.

3. The rectification shall not be authorized if the respective request has been made after Customs:

- a) Has informed the declarant of their intention to carry out the check of the goods;
- b) Has verified the inaccuracy of the elements in question; or
- c) Has authorized the release of goods for free circulation.

Article 161

Annulment of the customs declaration

1. When requested by the declarant, Customs shall revoke an already accepted customs declaration once it has been proved that an error has occurred in the declaration as regards the declared customs procedure or when, as a result of special circumstances, the placing of the goods under declared customs regime is no longer justified.

2. As soon as Customs has informed the declarant of their intention to check the goods, the application for annulment may be accepted only after such check has been carried out.

3. The annulment of the declaration does not prevent the application of the penalties provided

by law.

Article 162

Checking and verification of the customs declaration

For the purpose of checking and verifying the accuracy of the customs declaration and of observance of prohibitions or other requirements under customs legislation, or other applicable laws in Timor-Leste concerning the import or export of goods, as the case may be, and in accordance with article 53, Customs may:

- a) Verify and check the customs declaration and supporting documents;
- b) Require the declarant to submit additional documents;
- c) Inspect the goods, or promote their inspection through Customs' own resources;
- d) Check the goods;
- e) Collect samples for testing or analysis, or for detailed verification of the goods, pursuant to article 164 of this Code.

Article 163

Settlement

1. For settlement purposes, Customs shall:

- a) Determines the tariff classification, the country of origin and the customs value of the goods;
- b) Settles the amount of customs duties and other charges to be paid on such goods, when applicable.

2. The declarant shall be notified immediately of the settlement and the amount due if any.

3. The customs value, the tariff classification, the country of origin, the rate of customs duties and the amount of customs duties and other charges stipulated in the customs declaration may be accepted, instead of the settlement carried out by Customs, as referred to in paragraph 1 of

this article. In such circumstances, the notice of release shall be deemed to be a settlement by Customs for the purposes of this Code.

Article 164

Examination of goods

1. When the goods are selected for examination or sampling for the purpose of verifying the customs declaration, Customs shall immediately notify the declarant.
2. Expenditure resulting from the taking of samples and the prior examination of the goods shall be borne by the declarant and the quantities of the goods taken shall not exceed those necessary to enable proper analysis or examination, including any possible counter-analysis.
3. The declarant or his/her representative shall witness the examination of the goods. When they cannot or do not wish to do so, Customs shall carry out the examination of the goods without their presence.
4. The examination shall entail checking all the particulars in the declaration and their conformity with the goods declared and corresponding provisions applicable to the customs procedure.
5. When the results of the test or examination of the sample are unfavourable to the declarant, Customs may, at the request of the declarant, repeat the test or examination and, if appropriate, accept the results for the purpose of verifying the customs declaration, provided that such second test or examination is allowed only when the goods have not yet been authorized to leave or, if they have already left, the declarant proves that they have not been altered in any way.
6. The Director-General may authorize a duly authorized laboratory to conduct tests or examinations of imported goods for the purposes of this Code. The designation of these laboratories shall be preceded by accreditation and inspection by Customs according to the regulations and procedures that the Director-General establishes. Customs must ensure the publication of the name and address of the authorized laboratories.
7. Upon completion of the purpose for which a sample was collected, the sample, if possible, shall be returned to the declarant, unless the latter fails to collect it within one month of the written notification of its collection, in which case it shall be destroyed as decided by Customs.
8. The following constitute customs violations under this article:

- a) The person who wrongly declares the type and/or the quantity of imported goods, resulting in an underpayment of import duties and other charges;
- b) The person who wrongly declares the type and/or the quantity of imported goods, not underpaying, however, customs duties and other taxes;
- c) The person who wrongly declares the type and/or the quantity of goods exported.

9. The administrative sanctions corresponding to the previous paragraph are provided for in Title XIX of this Code.

Article 165

Time and place for goods examination

1. When Customs decides to examine the goods, it shall be carried out at the places and at the times established by Customs.
2. When the examination, sampling or other control of the goods is carried out by or on behalf of other competent authorities, Customs shall ensure, when possible, that customs controls and controls carried out by or on behalf of other authorities are conducted at the same time on the same site.
3. In exceptional cases and when duly justified, the examination may occur at times and places different from those established in paragraph 1 of this article, and the resulting expenses are borne by the declarant.
4. Expenses resulting from the transport of the goods shall also be borne by the declarant in the cases referred to in the preceding paragraph.

Article 166

Release of goods

1. The goods covered by the customs declaration shall be released for free circulation as soon as it is determined that:
 - a) All conditions required by the customs procedure are fulfilled, including payment or, when permitted, the provision of security for payment of customs duties and other

charges,

or the provision of security if requested;

b) Goods are not goods whose import or export is prohibited by law;

c) Any license, permit or authorization required by law for the import or export of goods,
as

the case may be, is issued; and

d) The customs declaration has been verified or accepted without verification by Customs.

2. Customs shall notify the declarant of the release of goods by providing at least the registration number of the declaration and the date of exit.

Article 167

Impediment to release

Customs shall take all necessary measures, including seizure and sale, to regularize the situation of goods which have not been granted a release for reasons attributable to the declarant or whenever the goods are prohibited from import or are subject to restriction measures.

Article 168

Notification of reasons for late release

When goods are not released for free circulation within five (5) days from the date of acceptance of the customs declaration, or within a shorter period if so determined by the Director General, Customs shall, within a maximum period of two (2) days from the receipt of a written complaint by the declarant, notify the latter in writing of the specific reasons for the delay.

Article 169

Amending Settlement

Subject to the time limits for claim, Customs may promptly modify or alter settlement of

customs duties and other charges in order to correct the settlement, including tariff classification, country of origin or customs value of the goods considered for this settlement, while the goods being settled are still under customs control, or the amounts originally settled have not yet been paid.

Article 170

Irregularities and violations

1. Whenever the verifier detects irregularities or violations in the process of examining the goods and checking the conformity of the customs declaration, he/she shall inform the supervisor of the competent department or the supervisor of the respective customs office in writing and separately.
2. In the case of irregularities that do not cause damage to the State, the supervisor shall determine its correction, notifying the declarant and ordering their registration in the individual file, without prejudice to the application of the administrative fine due under Title XIX.
3. When the verifier notices the existence of signs of infraction or crime and is informed of them, he/she shall order the preparation of the appropriate official report of the detected violation.
4. The verifier shall ensure that all details in the declaration are in conformity and shall indicate this in the customs declaration.
5. The verifier shall always prepare the respective checking report. The report shall contain:
 - a) Whether the checking was total or partial;
 - b) Whether the verifier weighed, counted and measured the goods;
 - c) Whether the verifier noticed the existence of damage, in excess or missing packaging;
 - d) The indication of the numbers or references of the volumes checked.

Article 171

Checking *a posteriori* and final checking

1. Whenever necessary, or at the request of the declarant, Customs shall carry out ex-post checking of the customs declaration as well as of all customs declarations selected for the blue sorting channel.
2. In the screening of the customs declarations to be submitted to the checking referred to in the preceding paragraph, Customs shall take into account, in particular, the value, origin and nature of the goods.
3. Whenever the checking *a posteriori* results in the finding of violations determining an amending settlement, the customs declaration shall be appended to the respective participation or report and shall be forwarded within two (2) days to the competent department for legal purposes.
4. In the case of violations that do not entail amending settlement, the supervisor prepares a notice to inform his/her Director within two (2) days.

CHAPTER II

SIMPLIFIED PROCEDURES

Article 172

Provisional release

1. Without prejudice to the conditions set out in the following paragraph, Customs may authorize the release of goods prior to the settlement of customs duties and other charges, on the basis of a simplified declaration.
2. The release of the goods referred to in the previous paragraph shall be subject to:
 - a) The presentation of a declaration, containing at least the information necessary for the identification of the goods, in the form stipulated by the Director-General;
 - b) The provision of a bank guarantee, in accordance with the form and at such amount as the Customs may determine sufficient to ensure payment of customs duties and other charges payable on the goods; and
 - c) The determination by Customs that goods are not goods whose import or export, as the case may be, is prohibited by law and that any license, permit, or other authorization

required by law has already been obtained.

3. The declarant shall, within the period stipulated after the release of the goods, provide an additional declaration containing the additional details necessary to complete the customs declaration in light of the customs procedure involved.

Article 173

Simplified and alternative procedures

1. In order to expedite the release of the goods, by means of a Ministerial diploma, the simplified procedure shall be expressly regulated for the following cases:

- a) For goods transported by, or in the luggage of a person to and from Timor-Leste;
- b) For commercial transport or transport for private use subject to temporary importation,
or
re-importation in the same condition;
- c) For goods for humanitarian assistance, including goods for the personal use of
humanitarian workers in the performance of their duties;
- d) For live animals and perishable goods;
- e) For goods carried by express consignment operators;
- f) In concrete situations requiring alternative procedures for declaration, examination or
release for free circulation, taking into account the facilitation of international trade and
risk
analysis; and
- g) Without prejudice to international conventions to which Timor-Leste is a party, goods
imported or exported by postal order through the international postal network, which does
not include personal correspondence.

2. Such simplified declaration, examination and release procedures may include, without

limitation, the use of verbal declarations, minimum information requirements and simplified forms, or the use of a commercial document instead of the customs declaration.

3. The simplified procedure shall not apply to goods arriving in the country in consolidated shipment (generally known as LCL).

TITLE XII

CUSTOMS-APPROVED TREATMENT AND REGIMES

CHAPTER I

GENERAL PROVISIONS

Article 174

Customs-approved treatment and regimes

1. Customs-approved treatment shall consist of the placing of the goods under an economic customs procedure or a suspensive procedure.

2. Re-exportation of goods, their placing in a free zone, their destruction and their abandonment in favour of the State shall also be regarded as customs-approved treatment.

Article 175

Allocation of a customs-approved treatment

1. Unless otherwise specified, at any time and under the conditions laid down, a customs-approved treatment may be assigned to the goods, irrespective of quantity, origin, provenance or destination.

2. The provisions of the preceding paragraph shall apply without prejudice to prohibitions or restrictions justified on grounds of public morality, order and public safety, protection of health and life of humans, animals or plant protection, protection of the national heritage of artistic, historical or archaeological value or protection of industrial and commercial property.

Article 176

Customs declaration

Any goods intended to be placed under a customs regime must be the subject of a declaration for that regime.

Article 177

Replacement of the regime beneficiary

1. If requested, the replacement of the beneficiary may be authorized in respect of goods which have already been placed in a warehouse or customs-approved treatment.
2. The authorization referred to in this article shall not imply a resumption of the counting of the period of residence of the goods.

CHAPTER II

CUSTOMS REGIMES

Article 178

Scope and conditions

1. The customs regime for release for free circulation shall apply to foreign goods brought into the customs territory for private use or consumption or to be placed on the national market.
2. The release of foreign goods for free circulation shall be subject to customs duties or other charges due and compliance with all the formalities referred to in articles 152 et seq., as well as to the implementation of all commercial policy measures, provided for by law.
3. Goods contained in travellers' luggage, in parcels or express parcels, shall be subject to the special provisions of this Code.

Article 179

Goods prohibited from import

Without prejudice to the provisions of special legislation and acts of international law subscribed by the Government of Timor-Leste, it is prohibited to import certain goods to be defined in a list approved by the Minister.

Article 180

Conditioned import goods

Without prejudice to the provisions of special legislation and acts of international law

subscribed by the Government of Timor-Leste, the goods contained in a list to be approved by the Minister have conditioned imports, that is to say, they can only be imported provided that they comply with the conditions set forth in the respective legal instrument.

CHAPTER III
SUSPENSIVE REGIMES AND CUSTOMS PROCEDURES
COMMON PROVISIONS

Article 181

Conditions for the allocation of customs procedures

1. The benefit of any customs suspensive regime or customs economic procedure shall be subject to prior authorization by the customs authorities, upon a written and reasoned request from the person concerned.
2. In order to apply for the benefit of the suspensive regime or the economic regime, proof must be furnished by the beneficiary of the regime depending on the cases of:
 - a) Entry in the register of authorized operators;
 - b) Mandatory registration and regularization of tax obligations in the General Directorate of Taxes of Timor-Leste;
 - c) A guarantee provided on terms to be fixed by the customs authorities;
 - d) The existence of conditions for the storage and surveillance of the goods, to the satisfaction of the customs authorities.

Article 182

Non-compliance with the regime

1. Whenever customs authorities notice non-compliance with any conditions or clauses inherent to a suspensive regime or to an economic regime, they shall propose to the Director-General to cancel the authorization and, in the case of an agreement, the settlement and recovery of the rights and other taxes, within a period of thirty (30) days.
2. A procedure shall be deemed discharged when the goods placed under it are assigned a

new authorized customs-approved treatment.

3. In the cases referred to in paragraph 1 and without prejudice to any penalties that may be applied, the customs authorities shall take all necessary measures to regularize the situation of goods for which the procedure is not discharged under the conditions laid down in the authorization for the benefit of the regime.

CHAPTER IV

TEMPORARY IMPORTATION

Section I

General provisions

Article 183

Scope and conditions

1. The temporary importation regime shall permit the use in the customs territory, with total or partial relief from the payment of customs duties or other charges and without being subject to measures of commercial policy, of foreign goods, intended for re-export without having undergone any changes, except normal depreciation resulting from its use.

2. The situations and conditions under which the temporary importation regime may occur are stipulated by the Minister.

3. The release of the goods placed under the temporary importation regime shall be granted by the compulsory provision of a guarantee of the amount due from any customs duty and other charges if the goods are declared for free circulation and comply with customs formalities.

4. Customs may refuse to release goods placed under the temporary importation regime if it is not possible to identify them when the procedure is discharged.

5. That regime entails the obligation to carry out ex-post control by the customs authorities.

Article 184

Taking of samples and other signs

1. At the time of examination of the goods declared for the temporary importation regime, the customs authorities shall carry out the taking of samples or the taking of other evidence in

view of future comparisons.

2. Expenses arising from the taking of samples, prior examination and verification shall be borne by the declarant.

Article 185

Refusal to grant regime

In addition to article 183, Customs shall refuse to grant the regime whenever it is not possible to ensure the identification of the goods by collecting signs for future comparisons.

Article 186

Temporary importation period

1. Without prejudice to special time limits set forth in international agreements, conventions or treaties to which Timor-Leste is a contracting party, the general term of temporary importation of goods shall be twelve (12) months.

2. Customs may extend the time limit at the request of the declarant, or when they deem it appropriate, but not for a total period of more than twenty-four (24) months from the date on which the goods are released under the temporary importation regime, or another term specially granted by order of the Minister, in particular for the mining and oil sectors.

3. Customs may also set a shorter time limit at the request of the beneficiary of the regime or when they deem it appropriate.

Article 187

Calculation of duties

1. The amount of customs duties and other charges payable in respect of goods covered by the temporary importation regime with partial relief from import duties shall be set at 3% per month or fraction of the month in which the goods were placed under the temporary importation regime.

2. The rate referred to in the previous paragraph shall be calculated on the customs duties which would have been charged to the goods if they had been released for free circulation on the date on which they were declared for temporary importation regime.

3. The amount of import duties to be collected shall not exceed that which would have been

charged in the case of the release for free circulation of such goods on the date on which they were placed under the temporary importation regime, not taking into account any applicable interest.

Article 188

Discharge of the procedure

1. The discharge procedure of temporary importation shall be determined by re-exportation of the goods or by the declaration for a different regime.

2. As stipulated by the Director-General and subject to the conditions and restrictions defined, the temporary importation regime may be established when the goods are:

- a) Declared for free circulation;
- b) Placed in a customs warehouse on condition of subsequent export;
- c) Abandoned in favour of the State.

3. The discharge procedure of the temporary importation for goods consumed, rendered useless or subject to free distribution shall be determined at the time when any of these effects have occurred and implies the payment of all customs duties and other charges payable on the date of acceptance of the declaration to the procedure.

4. Without prejudice to the applicable penalties, whenever the period granted for the customs procedure has been exceeded without the goods being declared for re-export, or Customs are unable to identify the origin of the goods declared for re-export vis-à-vis those placed under the procedure, the beneficiary of the procedure shall be liable for payment of the customs debt so incurred, added by the compensatory interest fixed by law on the total amount of customs duties payable and other charges.

5. Anyone who does not re-export temporarily imported goods within the time limits referred to in this article shall be subject to an administrative penalty.

Section II

Goods eligible for full suspension of duties

Article 189

Means of transport

1. For the purposes of this article, the following definitions shall apply:

a) Commercial use, the use of a means of transport for the onerous transport of persons or goods or in the context of the economic activity of the company;

b) Private use, the use of a means of transport excluding any commercial use.

2. The total suspension of customs duties and other charges shall be granted to means of road haulage and to those of air and sea navigation, provided that they are registered outside the customs territory or on behalf of a person established or resident outside that territory.

3. The means of transport shall comprise the spare parts, accessories and accompanying normal equipment, including trailers.

4. The period of discharge procedure for means of transport for commercial use shall be fixed by Customs according to the needs of each transport operation.

5. The period of discharge procedure for means of transport for private use shall not exceed thirty (30) days, and the customs authorities may set a shorter period of time depending on the circumstances.

6. The period referred to in the previous paragraph may only be renewed once, for an equal period.

Article 190

Importation of motor vehicles of national or foreign citizens

1. Under the terms stipulated by law, temporary importation is permitted for a period of one (1) year of motor vehicles of national or foreign citizens or entities that enter the country on a temporary basis and prove that they are not resident in Timor-Leste.

2. On the reasoned request basis of the owner of a motor vehicle subject to Temporary Importation (TI), Customs may authorize an extension of the period for another hundred and eighty (180) days, on payment of a fee.

3. Vehicles of travellers resident outside Timor-Leste who visits the national territory are, according to the law, subject to the special temporary importation regime, for a maximum period of thirty (30) days, renewable under the terms of paragraph 6 of the previous article.

4. In the situation referred to in paragraph 1, a bank deposit or bank guarantee corresponding to the duties and other charges shall be required.

5. Whenever vehicles under the system of admission or temporary importation referred to in this article are subject to further release for free circulation within the national territory, in particular because they are transmitted, in life or death, to the person for whom the respective assumptions have not been made, there is taxation in the terms generally prescribed for motor vehicles, without prejudice to the criminal or administrative liability that may arise.

Article 191

Identification of vehicles subject to temporary importation

1. The motor vehicle imported temporarily shall retain the registration number which it had in its country of origin or provenance.

2. When temporary importation of a motor vehicle that does not have an original registration number is authorized, its registration shall be made followed by TI (Temporary Import).

3. The registration number of motor vehicles temporarily imported pursuant to paragraph 2 shall be cancelled when the vehicles are re-exported and the customs authorities shall notify the fact, with the characteristics of the vehicle, to the service that made the TI registration.

Article 192

Importation under official agreements or missions

1. Temporary importation of motor vehicles from institutions involved in development projects officially approved by the Government in the framework of international cooperation or on an official service mission in Timor-Leste is permitted.

2. For the purposes of paragraph 1, the term of validity of the temporary importation shall be one (1) year renewable, according to the estimated time of the project or official mission.

Article 193

Motor vehicles for sporting events

Motor vehicles intended for sporting competitions shall be admitted into the country through an authorization issued by the competent authorities and approved by Customs and shall circulate only during the period during which the tests take place.

Article 194

Discharge procedure of vehicles subject to temporary importation

Motor vehicles imported temporarily in accordance with article 190 shall be re-exported after the expiry of the period allowed for temporary importation or definitively imported by payment of customs duties and other charges in force.

Article 195

Pallets and Containers

1. Pallets and containers used for the wrapping and transport of goods shall be granted a total suspension of customs duties and other charges.
2. The benefit referred to in the preceding paragraph shall only be granted to containers that can be identified in accordance with the international standards in force.
3. The discharge procedure shall be established by export or re-export of articles of the same type and of approximate value.

Article 196

Other Goods

Without prejudice to the provisions of special legislation and instruments of international law signed by the Government of Timor-Leste, the temporary importation regime for certain goods may be authorized by the customs authorities for the exact period to which they are intended in the following cases:

- a) Equipment that enters the country for research or extraction of oil or natural gas, linked to a service contract and for the duration of the contract by order of the Minister;
- b) Material and equipment for use in sporting events;
- c) Equipment to combat the effects of disasters and surgical and laboratory equipment under the same conditions;

- d) Animals intended for sporting events, shows, exhibitions, fairs and similar events, subject to the technical opinion of the competent authorities;
- e) Sound, image or information media and professional film, television and graphic arts material;
- f) Goods for exhibition;
- g) Spare parts, accessories, equipment and other goods intended for the repair and maintenance of goods subject to the procedure.

CHAPTER V

CUSTOMS WAREHOUSE

Article 197

Concept

1. The customs warehousing procedure shall permit the storage of imported goods in a customs warehouse irrespective of the quantity, country of origin, place of provenance or destination, with the suspension of duties and other import charges or subject to commercial policy measures.
2. Goods which constitute a risk and which are likely to affect others or which require special facilities shall only be admitted to customs warehouses specially designed for that purpose.
3. Customs shall designate the type of goods that may be admitted to private customs warehouses.

Article 198

Warehouse Typology

1. Depending on their use, customs warehouses shall be classified as:

a) Public warehouses;

b) Private warehouses;

c) Special warehouses.

2. A public warehouse shall mean any customs warehouse which can be used by any person for the storage of goods.

3. A private warehouse shall mean any customs warehouse reserved for the storage of goods, without the warehouse depository necessarily owning them.

4. Special warehouses shall be public warehouses which are managed directly by the customs authorities.

Article 199

Establishment of warehouse

1. Authorization for the operation and management of a customs warehouse shall be the responsibility of Customs and may only be granted when:

a) The applicant is a person established in Timor-Leste and offers all the fiscal and financial

guarantees which the customs authorities deem necessary for the proper execution of the operations;

b) The applicant proves the effective economic need for storage;

c) The customs warehouse is intended primarily for the storage of goods.

2. The holder of the authorization shall fulfil in particular the following conditions:

a) Have a minimum share capital of US\$ 50,000 in the case of a private warehouse or US\$ 100,000 in the case of a public warehouse.

b) Except in the case of special warehouses referred to in article 198, the holder of the authorization shall keep stock records using the permanent inventory, with a cash

balance,

in order to enable Customs to have immediate control over goods entered, exits or existing in the warehouse and the correct application of the regime.

3. The authorization may be revoked, without this being a basis for the requirement of any compensation when Customs considers that the customs warehouse is not or is no longer sufficiently used to justify its maintenance or if there is a repeated non-fulfilment of the obligations assumed by the beneficiary referred to in articles 201 and 202.

4. Whenever the authorization for the management of a customs warehouse is revoked, the revocation shall be communicated to the person concerned in the manner stipulated by the customs authorities, and their effects shall be verified within sixty (60) days of receipt of the notification, and goods in the warehouse are declared for another customs-approved treatment within the said period, failing which, if they do not do so, they shall be deemed abandoned.

Article 200

Property transfer

1. The property transfer of goods under a customs warehousing procedure may be authorized subject to the conditions and restrictions stipulated by the Director-General.

2. When the ownership of goods under a customs warehousing procedure is transferred, the person who acquires the ownership of the goods shall be subject to the rights and obligations of the declarant in respect of the goods, in accordance with the provisions of this Chapter.

Article 201

Liability of the depository

1. The authorized depository shall be responsible for:

a) Ensuring that goods are not removed from customs surveillance while they remain under

the customs warehousing procedure;

b) Observing the particular conditions established in the concession authorization;

c) Complying with the obligations under the customs legislation resulting from the storage of

the goods under the customs warehousing procedure.

2. The authorized depository shall be liable for payment of customs duties and other charges for missing goods, in particular through theft or robbery, without prejudice to any procedure for a tax offence, in accordance with the legislation.
3. The Director of Customs Control shall arrange an inventory stock of the customs warehouse to be carried out whenever he/she deems it necessary.
4. The inventory shall be compulsory once a year, even in the warehouses managed by the customs authorities.
5. Any person withdrawing goods from a warehouse before authorization by the customs authorities shall be subject to an administrative penalty.
6. The holder of an authorization that does not supply Customs with the exact quantity of the warehouse stock shall be subject to an administrative penalty.

Article 202

Guarantee

1. The customs authorities shall require the provision of a financial guarantee for a deposit or bank guarantee in order to guarantee the duties and other charges payable on goods placed under the customs warehousing procedure.
2. In determining the amount of the guarantee required under article 23 of this Code, the Director-General shall take into account the average storage capacity, the tax burden and the fiscal security of the facilities intended for warehousing.
3. The guarantee shall cover at least 50% of the customs duties or other fees payable for the goods stored or to be stored on a quarterly basis and may be adjusted on the initiative of the Director-General or at the request of the authorized depository, on the basis of the movement of goods occurred in the previous quarter. In the case of goods subject to excise tax, the guarantee must be 20% of the taxes paid in the previous quarter or, in case of start of the activity, 30% of the quarterly forecast of the taxes in question.
4. No guarantee shall be requested when the authorized depository is a Public Administration entity or is under the direct administration of the State, but it is subject to the presentation of a payment commitment voucher (PCV).
5. In any event, no single import may exceed the amount fixed for the guarantee and the

customs authorities shall be informed thereof.

6. When an import or single entry into the warehouse is of a value greater than the overall guarantee provided, the authorized depository shall notify Customs, so as to increase or waive the guarantee limit.

Article 203

Deadline and storage fees

1. Without prejudice to the deadlines resulting from the conditions of the perishability of the goods, the maximum period of stay of the goods under customs warehousing is twelve (12) months, extendable for two successive periods of six (6) months each, for justified reasons.

2. Goods placed under the customs warehousing procedure shall be deemed abandoned in favour of the State if the deadline established in the preceding paragraph is not fulfilled.

3. The authorized depository shall annually inform Customs Control of the storage charges collected at customs warehouses and shall be advertised at a public spot in the warehouse by the holder of the authorization.

4. Customs shall adopt the provisions of the preceding paragraph, in relation to the public customs warehouses under their management.

Article 204

Authorized Operations

1. Taking into account the conditions and restrictions established by the Director of Customs Control, the depositor is authorized to:

- a) Examine the goods;
- b) Extract samples, with the payment of customs duties and other charges to which they are entitled;
- c) Carry out the usual forms of handling intended to preserve the goods during storage, as well as improve their presentation or commercial quality, or prepare for their distribution or resale.

2. The usual handlings must appear in a discriminative list to be approved by the Minister, after the proposal of the Director-General, and their undertaking must be authorized by the Director of Customs Control, who will determine the conditions under which they can be carried out.

Article 205

The temporary exit of goods

1. Except for goods subject to excise tax and whenever circumstances so warrant, goods under the customs warehousing procedure may be temporarily withdrawn from the warehouse.

2. Permission to carry out temporary withdrawals of goods may be granted generally in the authorization, or on a case-by-case basis, upon prior written request sent to the Director of Customs Control.

3. The temporary withdrawals and their entries shall be entered in the stock records.

4. During their stay outside the customs warehouse, the goods may be subject to normal handling.

Article 206

Transfer between customs warehouses

1. In accordance with the provisions of article 28 of this Code and without prejudice to the maximum storage period defined in article 203, the transfer of goods between customs warehouses is allowed, counting their period of stay from the beginning of the allocation of the regime.

2. The conditions under which goods placed under the customs warehousing procedure may be moved between different places within the same authorization or to the premises of another holder without discharge of the procedure shall be laid down in the authorization and shall be in accordance with a movement document.

Article 207

Calculation of the customs value applicable to the warehousing procedure

1. Without prejudice to the penalties provided for in this Code, whenever, as a consequence of the inventory referred to in article 201 3), or at any point in which Customs detect situations liable to constitute a customs debt in respect of goods placed under the customs warehousing procedure, the value of that debt shall be calculated in accordance with article 98, and the costs resulting from the storage and preservation of the goods during their stay in the customs warehouse shall not be included in the customs value, provided that such costs are broken down separately from the actual price paid or payable for the goods.

2. If the goods have undergone usual forms of handling, nature, customs value and quantity to be taken into account for determining the amount of import duties shall be those corresponding to goods which have not been subject to such forms of handling.

Article 208

Obligations resulting from the storage of goods

The authorized depository or the depositor, as the case may be, is responsible for complying with the obligations arising from the storage of goods in customs warehouses, namely:

- a) Ensure good conservation of the goods;
- b) Request authorization from Customs Control to carry out usual handlings and temporary withdrawals, destroy any goods or carry out prior checks;
- c) Deliver to Customs Control the list of goods under customs warehousing procedure that remain in it, after the deadline established in article 203.

Article 209

Discharge of the procedure

Subject to compliance with the conditions and formalities required, the customs warehousing procedure shall be discharged when:

- a) The goods are released for:
 - i. Introduction into free circulation;

ii. Definitive export;

b) The goods are abandoned in favour of the State.

Article 210

Supervision and control

1. Customs Control shall take all the supervision and control measures necessary to ensure the proper functioning of the customs warehousing procedure.

2. In order to comply with the provisions of the preceding paragraph, the customs authority concerned may, in particular:

a) Require, at any time, the presentation of the goods deposited in the warehouse;

b) Verify and re-verify entry and exit, when deemed necessary;

c) Require that inventories of all or part of the goods subject to the procedure be carried out,

whether or not on a regular basis, as well as inspections of stock records.

3. Public warehouses are subject to permanent supervision by Customs and to searches and seizures.

CHAPTER VI

GOODS SUBJECT TO EXCISE TAX

Section I

Special provisions

Article 211

Taxable event and tax enforceability

1. Duties and other taxes are due and payable, in national territory, at the moment of introduction for free circulation or of the finding of the faults that must be taxed.

2. The introduction for free circulation of products subject to Excise Tax (ET) shall be:

- a) Any exit of such products from a suspension system, from a customs warehouse;
 - b) Any illegal and clandestine manufacture of these goods outside a suspension regime and without customs declaration, i.e. without the knowledge or authorization of the customs authority;
 - c) Any importation, even illegal, of such goods when they are not under suspension;
 - d) The finding of shortages in customs warehouses, in addition to the tolerances for losses established in the customs laws and regulations.
3. The rate of duties and other taxes to be applied in the national territory shall be that in force on the date of enforceability.

Article 212

Conditions for access to the suspensive procedure and approval

1. The request for the granting of the status of authorized depository and consequent approval of the premises of the customs warehouse shall be submitted to Customs with the following documents:
- a) Application, where the interested party identifies himself/herself, locates the premises of the customs warehouse, as well as the types of goods that he/she intends to store with suspension of taxes. In the case of a company, its identification and the identification of each one of the partners, is sufficient to present the updated corporate statute of incorporation of the company;
 - b) Photocopy of the taxpayer's register (TIN) of the company and of the partners;
 - c) Photocopy of the registration in the Directorate of Trade Services;
 - d) Photocopy of Personal Identification;
 - e) Inspection documents for the premises, issued by the customs services;

- f) Declaration of commitment by the interested party, stating that he/she is subject to the controls that Customs wishes to make, declares and pays taxes as stipulated and is responsible for the missing goods in the warehouse;
- g) Bimonthly estimate of the customs value to be imported and hold in suspension, in case of start of activity under suspension regime;
- h) Bank guarantee, valid for one year, in the amount equivalent to 30% of taxes paid in the last 2 months;
- i) Certificate of fire safety, issued by the Fire Department of the customs warehouse area, stating that in the case of explosive or flammable goods, there is no school or hospital within a radius of 500 meters. If there is no Fire Service within 200 kilometres of the premises, the customs authorities will issue this certificate;
- j) In the case of requests for the constitution of customs warehouses where fuels or undenatured ethyl alcohol enter, a statement of compliance with the established requirements for stocks of mandatory strategic reserves, as stipulated by the competent authority;
- k) Comply with other procedures prescribed by the customs authority.

2. The owners of customs warehouses already existing regularly and approved by Customs before the date of entry into force of this Code, do not need to be subject to all these formalities, being sufficient a simple declaration confirming that they have knowledge of the present diploma, accompanied by the declaration referred to in subparagraph j) of the preceding paragraph, if applicable, to be presented to Customs within thirty (30) days after the said date.

Section II

Special provisions

Article 213

Customs warehouses of undenatured ethyl alcohol, of fuels and other petroleum products

1. Import duties shall be payable on fuels and other petroleum products when they are declared for the entry regime into the customs warehouse of petroleum products, which is duly constituted and authorized, considering ET and Sales Tax (ST) suspended.

2. The storage of undenatured ethyl alcohol and petroleum products, under a tax suspension system, may only be carried out in a customs warehouse, with authorization and under the control of the competent Customs.

3. They shall be subject to such control measures as are deemed necessary, in particular, access to accounts, computer systems, exit reporting obligations as well as physical control of operations.

4. The authorized depository who holds a duly authorized customs warehouse for ethyl denatured alcohol or petroleum products shall comply with the following additional obligations:

a) Maintain updated stock accounts in a permanent inventory system, with an indication of

their origin, destination and elements relevant to the calculation of the tax;

b) Present the products on demand and be available for searches and seizures and other controls as determined by the customs authority;

c) Submit the tanks and measuring instruments to the metrological control of the competent

authority and have a valid calibration certificate;

d) Keep the documents relating to each receiving or dispatch operation for a period of three (3) years and notify the customs authority of the change of managers or administrators;

e) Present to Customs a daily summary of warehouse exits for consumption, describing by product and by destination exempt and not exempt from taxes;

f) Require the presence of a customs official for all exits of products that, for any reason,

are

not subjected to counter metering, is the presence of an employee mandatory for product exit operations are done by direct manual measurement in the tank.

Article 214

Measurement and survey equipment

1. The authorized depository, holder of the customs warehouse for undenatured ethyl alcohol or petroleum products, must be equipped with the following measuring instruments in storage rooms:

- a) Certificates of calibration, issued by an accredited entity, of the reservoirs, with their respective volumetric tables, as well as of the pipes;
- b) Thermometer with divisions equal to or less than 0,5° C and densitometers in accordance with international standards in the case of mineral oils;
- c) Drilling tapes certified by a credible body;
- d) Volumetric meters with a certified counter and thermometer.

2. The drilling procedure is as follows:

- a) Full-space drilling is carried out to the reservoirs containing the product with the drilling metric tape;
- b) A sample shall be taken, which shall consist of equal quantities extracted from the middle of each of the three-thirds of the product in the tank;
- c) The temperature and the density of each sample collection are observed, calculating their arithmetic means;

- d) The values obtained are corrected for the reference conditions using the stipulated correction tables.

Article 215

Entry into the customs warehouse of petroleum products

1. In the receipt of petroleum products not coming from the national territory, unloaded from pipelines directly to the customs warehouses of petroleum products, the pipelines for entering and exiting the product of the tanks must have valves that allow isolating the receiving tank from the remaining.
2. During the unloading, the customs officer seals the valves whenever necessary.
3. After quantification of the existing product on the ship, the outlet valves of the tanks that will receive the product are closed.
4. The reservoir that will receive the product will be plumbed in order to quantify the product in the reservoir, and the valve of the pipeline connecting the reservoirs to the maritime quay will be opened and the product will then be received.
5. Upon receipt, the valve connecting the reservoir to the maritime quay shall be closed and the tank shall be re-drilled.
6. The difference between the quantity found after and before the product is received in the tank shall be the quantity actually received.
7. On receipt of petroleum products packed in horizontal cylinders duly certified and fitted with a volumetric table, the tanks are plumbed with the respective rod and the volume they contain, corrected for the reference temperature of 15° C, is calculated.

Article 216

Determination of quantities received

1. The product volume determination in litres at the observed temperature is carried out by consulting the millimetre tables contained in the calibration certificates of the reservoirs, obtaining, by interpolation of the value gathered in the drilling, the corresponding volume of product in litres.
2. The observed density is converted to the density at 15° C using the correction table stipulated in the American Society for Testing and Materials (ASTM) standard.
3. Taking into account the average temperature observed and the density-corrected to 15° C, the stipulated table of the ASTM standard is used to find the volume correction factor that is used to calculate the volume at the observed temperature for volume at the reference temperature of 15° C.

Article 217

Departure from the customs warehouse of petroleum products

1. The determination of partial quantities exiting the storage facilities of the economic operator, which in this case are taxed on the basis of the volume at the reference temperature of 15° C, is carried out by direct volumetric metering.
2. In exceptional cases and under Customs inspection, the determination may be carried out by indirect weighing or indirect measurement of the reservoirs.

Article 218

Supporting documents at the exit of the customs warehouse

1. For each exit of the product the company issues a support document with a sequential numbered loading note containing the following information:
 - a) Name of the issuing company, tax identification number (TIN) and place where the facilities are located;
 - b) Date and time;
 - c) Economic operator for whom the product is intended (customer);

- d) Commercial description of the product;
- e) Number of the tank supplying the meter;
- f) Identification of the meter;
- g) Counter numerator after loading;
- h) Difference between the counter numerator before and after the load;
- i) Product temperature;
- j) Density at 15° C of the product;
- k) Registration of the tanker that transports the product;
- l) Name of the driver of the tanker.

2. These documents shall be kept in the company for 5 years at the disposal of the official entities.

Article 219

Documentary procedures

1. Upon receipt of the mineral oils, the operator shall enter in the customs declaration the quantity of product actually received by volume at the reference temperature of 15° C and settle the amount corresponding to the customs duties, the goods being suspended from other charges due to the release for consumption.

2. For this purpose, he/she must present with the import declaration, the Bill of Lading, the measurement report with the calculations that allow to know the amount received and the commercial invoice or corresponding document where he/she will indicate the value of Cost, Insurance and Freight (CIF) of the taxable unit (litres at 15° C).

Article 220

Monthly declaration of release for consumption

1. By the tenth day (10) of each month, the operator shall submit and pay on the form of the customs declaration of importation the sum of the quantities in litres at 15° C sold in the preceding month to the non-exempted economic operators.

2. In this import declaration, the authorized depository on the quantities released for consumption in the previous month declares and pays the Excise Tax (which is levied on the taxable unit) at the rate in force and the Sales Tax on the value of the product declared in the last entry plus the ET.

Article 221

Losses in storage and tolerances for losses

1. The authorized depository, being responsible for the value of the taxes levied on the products held in the warehouses in suspension, when in the absence of those warehouses, shall benefit from tolerance for losses corresponding to the difference for less between the accounting balance and the stocks held in storage, with the following limits:

a) 8 litres per thousand litres/ 15° C for diesel, kerosene and carboreaters;

b) 12 litres per thousand litres/ 15° C for gasoline and aviation gasoline;

c) 20 litres per thousand litres/ 15° C for undenatured ethyl alcohol.

2. The calculation for the tolerance shall be based on the sum of the quantities of products in storage at the last search and seizure, with the quantities entered into it, which shall be compared with the difference between physical stocks and the accounting balance.

Section III

Inspections, searches and seizures and warranties

Article 222

Inspections and searches and seizures

1. It is the obligation of the authorized depository to maintain, in addition to its documentary accounts, stock records of products organized in a permanent inventory system, with a cash balance.

2. The customs office shall carry out regular searches and seizures by checking the physical existence of the goods stored, comparing the stocks with the goods in and out, and shall adopt the following procedures with regard to losses calculated:

a) If the tolerances for losses are not exceeded, they shall disclose that fact and shall rectify

it accordingly in the current account statement of the warehouse;

b) If the tolerances for losses are exceeded, they will promote the informal settlement of the

tax, the necessary investigations and the possible prosecution for customs tax infraction;

c) If surpluses are found, the current account form of the warehouse shall be rectified.

3. Customs shall carry out such other checks as may be necessary.

Article 223

Warranties

1. In addition to the provisions of article 202, the storage of products in suspension of taxes requires the constitution of a prior warranty.

2. The warranty term shall contain a clause in which the guarantor expressly obliges him or herself before the customs authority, as a subsidiary responsible, but with a waiver of the benefit of the excussion, that is, the guarantor must pay, even if there are assets of the debtor, all amounts that are the responsibility of the taxable person, up to the maximum guaranteed amount within eight (8) days, counted from the date of notification.

3. The warranty for storage in the tax warehouses of petroleum products shall be equivalent to 20% of the amount of the average monthly tax due for the products entered in the warehouse in the previous year or, in the case of start of activity, of its monthly average forecast for the first year, computing in any case the tax that would be owed by the products with exempted destination. The calculated value cannot be less than US\$ 5,000.

Article 224

Change of warranties

1. In cases of breach of the obligations relating to warranties, the percentages referred to in the previous article may be increased, by order of the Director-General.
2. In the case of a reasoned request by the taxable person, the Director-General may grant an extraordinary reduction in the storage warranty.

Section IV

Required stocks

Article 225

Constitution and maintenance of security stocks

1. Authorized depositories are subject to the obligation to constitute and maintain security stocks of petroleum product volumes, to be stored in national territory, in order to be released for consumption when expressly determined by the government, to deal with situations of supply disruption.
2. The total volume of stocks which the authorized depositories of customs warehouses for fuel and alcohol are required to maintain shall be 1% of the sales volume recorded in the previous month, by product.
3. Authorized depositories who have not presented movement in the previous month or have begun operations shall provide an estimate of the releases for consumption in the current year and constitute stocks on the basis of that estimate.
4. Authorized depositories may set up stocks in their own storage facilities or contract their storage to third parties, in which case the provisions of the contracts should allow for a

degree of availability similar to that which would occur in the case where the stocks are made in own warehouses, and the contracting entity is obliged to allow the necessary controls by the competent authorities.

5. Stocks shall be permanently available for use and shall be accessible for identification, accounting and control by the competent authorities.

6. In the event of a situation of supply difficulties, authorized depositories must comply with decisions regarding security stocks that are taken by the government.

7. Operators and professionals who carry out their activity without the status of authorized depositories, therefore without a customs warehouse, are not obliged to constitute such stocks because they do not benefit from the suspension regime.

Section V

Circulation of goods subject to ET and control of exit from port facilities

Article 226

Accompanying documents for goods subject to ET

1. The circulation of the goods subject to ET that are in suspension regime is made with an accompanying document whose model will be approved by order of the Minister.

2. The loading notes and the invoice also constitute circulation documents of these same goods, proving their tax regularization.

Article 227

Documentary control at port facilities

1. The goods cannot be removed by road from the port customs territory without the carrier delivering a copy of the customs checking document to the exit controller, obtaining the original.

2. Duplicate copies of these exit guides shall be provided for this purpose.

Section VI

Taxation of tobacco, mineral fuel oils and alcohol

Article 228

Tax stamps on manufactured tobaccos

The eventual adoption of the system of recognition by fiscal stamp can be adopted after a trial period and in terms to be defined by the Government.

Article 229

Marking and colouring of alcohol and fuel

The eventual adoption of the system of recognition by trademark or colour can be adopted after a trial period and in terms to be defined by the Government.

Article 230

Stowage of goods in a customs warehouse

If goods subject to ET are stored together with other goods in the same customs warehouse, the responsible person is obliged to physically separate the said goods from the other products by means of any type of separator, including screens, metal nets and grids, to be approved by Customs.

CHAPTER VII

CUSTOMS TRANSIT

Article 231

Internal transit and external transit

1. The internal transit procedure shall allow the movement of national goods from one customs office to another through the territory of a third country without changing their customs status.

2. The external transit procedure shall allow the movement of foreign goods between two customs offices without such goods being subject to customs duties on imports and other charges or measures of commercial policy as stipulated by customs legislation.
3. Except as may be authorized by the Director General, foreign goods moving between customs warehouses or customs offices as well as goods declared for export shall be subject to the external transit procedure.
4. If the transport of goods under the external transit procedure takes place by the sea, the ship may not suspend navigation between the port of departure and the port of arrival.
5. Customs may set a mandatory itinerary regarding road transport as well as require the provision of a guarantee, establish a period for discharge of the transit procedure, or request the application of a customs seal, identification marks or clamping devices.
6. Customs shall, where it deems it necessary, require that goods placed under a transit procedure be transported under customs escort.
7. Goods moved under a transit procedure shall be accompanied by the respective copy of the customs declaration.

Article 232

Obligations of declarant and transporter

1. The declarant of goods placed under the transit procedure shall be responsible:
 - a) For their presentation and provision of information or presentation of the documents requested at the customs office of destination within the period stipulated by Customs, and that said goods may only circulate on a route defined by Customs, may not have undergone any alteration or manipulation, and may have customs stamps, seals and identification marks intact;
 - b) For compliance with the rules laid down in the customs legislation regarding the regime;
 - c) Unless otherwise provided in the customs legislation, for the provision of a guarantee

so

as to ensure payment of the amount of customs duties on imports and other charges liable

to arise in respect of the goods.

2. Whenever goods are placed under the transit procedure and the information or documents required are made available at the customs office of destination in accordance with customs legislation, the declarant's obligations shall be deemed to have been fulfilled and the transit procedure discharged.

3. The carrier accepting goods in transit subject to the transit procedure shall also be responsible for the presentation of the goods at the customs office of destination by means of a route approved by Customs within the stipulated period and with the customs seals, fasteners and identification marks intact.

Article 233

Discharge of the procedure

1. A transit procedure shall be deemed to have been discharged when the respective copy of the customs declaration is returned to the customs office of departure, duly authenticated by the customs office of arrival.

2. The customs of arrival referred to in the previous paragraph shall be responsible for the discharge.

3. Without prejudice to the penalties provided for in this Code, the non-discharge of a transit procedure shall be included in the participation to the Director-General, who shall immediately call the guarantee and issue a notice of tax infraction.

CHAPTER VIII

Export

Section I

Definitive export

Article 234

Scope and definition

1. The customs procedure for definitive export shall consist in the definitive exit of goods by any means from the customs territory through a customs declaration.
2. The preceding paragraph shall not apply to goods leaving Timor-Leste under a customs procedure of:
 - a) Transshipment;
 - b) External transit, when the foreign goods only pass through the customs territory;
 - c) Internal transit, when domestic goods only temporarily leave the customs territory;
 - d) Outward processing;
 - e) Temporary export.
3. The provisions of this Code governing customs declarations and declarants on importation shall apply to final export.
4. The customs declaration for the definitive export procedure shall be delivered to the customs office of exit.
5. Goods declared for export shall be subject to permanent surveillance by the customs authorities from the moment the declaration is accepted until the means of transport actually leaves.

6. The goods shall be subject to payment of customs duties on exports whenever they are legally owed.

7. If the export of the goods declared for export is cancelled, Customs shall be notified in writing by the exporter.

8. The exporter who fails to notify Customs of the cancellation of the export under the terms of the previous paragraph shall be subject to an administrative fine.

Section II

Temporary export

Article 235

Scope and definition

1. The temporary export procedure allows national goods to be exported and returned to the customs territory, free of customs duties and other charges on re-importation, as stipulated by the law in force.

2. The goods shall be re-imported in the unaltered state, without having undergone any modification, except for the normal depreciation resulting from their use.

Article 236

Re-importation deadline

The re-importation of temporarily exported goods must take place within twelve (12) months, extendable only in duly justified cases.

Article 237

Conversion from temporary to definitive export

At the request of the interested party, Customs may authorize the temporary export to become definitive, provided that all the applicable conditions and formalities are fulfilled.

CHAPTER IX

PROCESSING

Section I

General provisions

Article 238

Compensating products and yield rates

1. Compensation products shall mean products obtained from one or more of the following processing operations:

- a) Manufacturing, including assembly, reunion and adaptation to other goods;
- b) Processing of the goods;
- c) Repair of the goods, including their restoration and refining.

2. The yield rate shall be the quantity or percentage of compensating products obtained from the processing operations to which a given quantity of goods has been subjected.

3. Except as otherwise provided by the Director General, equivalent goods shall have the same tariff classification, commercial quality and technical characteristics as the goods they are replacing.

4. The yield rate shall be fixed by the customs authorities at the time of authorization of the procedure, on the basis of the information provided by the production.

Article 239

The requirement for use of processing procedures

1. The use of processing procedures depends on authorization issued by the Director-General

upon the request of the person concerned.

2. The applicant for the authorization referred to in the preceding paragraph shall be a person established in Timor-Leste who carries out the processing operations or who organizes its execution.

3. The granting of authorization shall be subject to:

- a) Inclusion in the register of authorized operators;
- b) Mandatory registration and regularization of tax obligations in the relevant department in Timor-Leste;
- c) Provision of guarantee in accordance with the terms determined by Customs;
- d) Conditions of storage and control of the goods that satisfy Customs.

4. The use of processing procedures should not be authorized:

- a) When it is not possible to identify the goods placed under the respective procedures in processed products;
- b) When, after consultation with inspection entities, it is clear that customs controls on the intended processing operations are not feasible, according to satisfactory technical or economic conditions;
- c) When the Minister determines that the essential interests of the Timor-Leste producers may be harmed by the authorization of the procedure.

Article 240

Conditions of authorization

1. The authorization granted by Customs shall specify the conditions under which the processing procedure is permitted under this Chapter, including:

a) Procedures enabling or permitting the identification of the goods in processed products;

b) The period within which the procedure may be waived or an application for drawback made, which may be extended by justification;

c) The rate of return.

2. In the case of outward processing regime or drawback regime, the Director-General may authorize the following, provided that the proper application or conduct of the regime is ensured:

a) The use of equivalent goods;

b) The export of processed products obtained through equivalent goods before the importation of the foreign goods which they are replacing.

Article 241

Non-compliance with the customs procedure

1. Whenever Customs finds that any conditions or clauses inherent in a customs procedure under this Chapter have not been fulfilled, the Director-General shall be proposed to cancel the authorization, where applicable.

2. Without prejudice to the provisions of this Code in relation to customs decisions and right of appeal, where the recommendation is accepted by the Director-General, it shall be:

a) Rejected the application for reimbursement of customs duties on imports and other charges under the drawback scheme;

- b) Collected customs duties on imports and other charges on goods placed under outward processing regime;
- c) Refused, in whole or in part, the exemption from customs duties on imports and other charges under the outward processing procedure, as the case may be.

Section II

Drawback

Article 242

General principles

1. The drawback system allows reimbursement of customs duties on imports and taxes paid on foreign goods released for free circulation if they are exported from the customs territory in the form of processed products within the period specified in the authorization or as stipulated.
2. The duties and taxes applicable to goods subject to the drawback system shall be covered by warranty, through deposit or bank guarantee.
3. The drawback system may be used only by authorized operators and subject to prior authorization by the customs authorities.
4. The declaration for release for free circulation of the foreign goods referred to in paragraph 1 of this article shall indicate the use of the drawback system.
5. Goods declared for drawback system shall not be subject to commercial policy measures or to any restrictive measures.

Article 243

Control measures

Goods declared under the drawback system must be subject to import control measures in order to enable Customs to certify at the time of exportation of processed products that they

are actually imported.

Section III

Inward processing

Article 244

General principles

The inward processing regime allows the importation of foreign goods for use in processing operations with the suspension of customs duties on imports and other charges, in accordance with existing customs legislation or the application of trade policy measures.

Article 245

Time limits

1. The customs authorities shall specify the time limit within which the compensating products are to be exported or re-exported or to receive another customs-approved treatment. This period shall be fixed taking into account the time necessary to carry out the processing operations and to dispose of the compensating products.

2. The time limits shall apply from the date on which foreign goods are placed under the inward processing procedure. The customs authorities may extend them at the duly substantiated request of the holder of the authorization.

3. For the sake of simplification, it may be decided that the time limits which begin during the calendar month or a quarter shall end on the last day, as the case may be, of a calendar month or a subsequent quarter.

Article 246

Discharge of the procedure

1. The inward processing procedure is discharged when all processed products resulting from processing operations for goods placed under the procedure, including useful waste, are exported under any other customs regime, abandoned in favour of the State or rendered unusable under customs supervision.

2. At the request of the authorized person, the Director-General may authorize the re-exportation of the goods subject to the inward processing procedure, in the same state in which they were imported with exemption from the discharge of the procedure in respect of those goods.

Article 247

Calculation of customs duties on imports and taxes

In the case of a customs debt incurred in respect of goods placed under the inward processing procedure or products processed as a result of their release for free circulation or for another reason, the amount of such debt corresponding to customs duties and taxes shall be determined at the request of the authorized person on the basis of the tariff classification, customs value, quantity and origin of the goods subject to inward processing regime, at the time of acceptance of the declaration of those goods.

Section IV

Outward processing

Article 248

General principles

1. Outward processing procedure shall permit the temporary export of domestic goods from the customs territory to undergo processing operations and be re-imported within the period laid down in the authorization or as prescribed in the form of compensating products, with the total or partial exemption of customs duties on imports and taxes according to the legislation in force.

2. Outward processing arrangements shall not be authorized in respect of domestic goods whose export gives rise to the reimbursement of customs duties and other charges.

Article 249

Operation of the regime

1. The customs authorities shall fix the deadline for the re-importation of the compensating products into the customs territory. They may extend this period at the duly justified request of the holder of the authorization.
2. The customs authorities shall determine the rate of return of the transaction or, where appropriate, the method for determining that rate.

Article 250

Exemption from customs duties on imports and taxes

The total or partial relief from customs duties on imports provided for in article 248 consists of deducting from the amount of import duties corresponding to the compensating products released for consumption, the amount of import duties and taxes which would be applicable on the same date to the goods exported temporarily, assuming that they would have been imported from the country where they were the subject of the processing operations.

Article 251

Total exemption from customs duties on imports and taxes

When it is demonstrated that the repair of goods temporarily exported under outward processing has been effected free of charge under a contractual obligation of guarantee or because of a possible manufacturing defect, the re-importation of the compensating product shall be carried out with the total exemption of import duties and taxes.

Article 252

Discharge of the procedure

1. Outward processing procedure shall be discharged when all processed products resulting from processing operations carried out on goods placed under the procedure are subject to another customs procedure, either abandoned to the State or destroyed under customs supervision.

2. At the request of the authorized person, the Director-General shall authorize:

- a) The discharge of the outward processing procedure by placing the goods under the temporary export procedure when the goods are returned in the same state in which they were exported;
- b) The discharge of the outward processing procedure by placing the goods under the export procedure.

Article 253

Beneficiaries of the procedure

The benefit of the outward processing procedure may be granted:

- a) To natural or legal persons established in the national territory who offer all the guarantees that the customs authorities deem necessary for the proper execution of the operations;
- b) When it is possible to identify the goods temporarily exported in the compensating imported products;
- c) When, following a previous hearing and express technical opinion of the supervisory bodies, it becomes clear that it is not possible to carry out the intended industrial operations, under satisfactory technical or economic conditions.

Article 254

Content of authorization

1. The authorization granted by the customs authorities shall contain:

- a) The procedures for identifying the goods in the compensating products;

- b) The period of re-importation which can be extended for justified reasons.
2. The authorization shall also fix the rate of yield, this being understood as the quantity or percentage of compensating products obtained in the processing operations to which a given quantity of exported goods has been subjecting.

CHAPTER X

OTHER CUSTOMS-APPROVED TREATMENT FREE ZONES AND FREE WAREHOUSES

Article 255

Concept

1. Free zones and free warehouses shall be parts of the customs territory or places situated therein where foreign goods shall be deemed not to have been introduced into the customs territory.
2. The goods referred to in the preceding paragraph may be subject to all types of industrial transformation, manufacturing process or manipulation.
3. Goods placed in free zones and free warehouses referred to in paragraph 1 of this article shall be subject to customs control.
4. The establishment or authorization of free zones and free warehouses shall be the responsibility of the Minister, who shall determine the conditions thereof, including:
 - a) The implantation and geographical delimitation of the precinct;
 - b) The type of fence that surrounds the precinct;
 - c) The types of activities authorized;
 - d) The system of tax guarantees to be provided by the beneficiaries and the applicable

administrative sanctions.

5. The construction of buildings in a free zone shall be subject to prior authorization by the customs authorities.

Article 256

Limits and accesses

1. The limits of access and exit from free zones and free warehouses shall be subject to supervision by the customs authorities.

2. Persons and means of transport entering or leaving the free zone may be subject to customs control.

3. Access to a free zone may be prohibited to persons who do not provide the guarantees necessary to comply with the provisions of this Code.

4. The customs authorities may inspect goods entering, remaining in or leaving the free zone. In order to enable such control, a copy of the transport document accompanying the goods at their entry or exit must be handed over to the customs authority, or made available to a person designated for that purpose by those authorities. Whenever such checks are required, the goods shall be made available to the customs authorities.

Article 257

Type of goods

National and non-national goods may be placed in the free zones. The customs authorities may, in view of the characteristics of certain goods and the degree of danger that they may present, require that such goods be placed in places specially equipped to receive them.

Article 258

Goods entering a free zone

1. Without prejudice to article 256, the entry of goods into a free zone does not imply their submission to the customs authorities or the delivery of a customs declaration.

2. It shall only be presented to the customs authorities and be subject to the customs formalities provided, the goods which:

- a) Are subject to a customs procedure and whose entry in a free zone is the result of the discharge of that procedure;
- b) Have been subject to a decision of grant reimbursement or exemption of payment of import duties authorizing the placing of such goods in a free zone;
- c) At the request of the person concerned, the customs authorities shall certify the national or non-national status of goods placed in free zones.

Article 259

Term of stay

- 1. The period of stay of the goods in the free zones shall be unlimited.
- 2. Customs may, for a certain type of good and taking into account its characteristics, stipulate another term of stay.

Article 260

Activities allowed

- 1. The exercise of any industrial or commercial activity, or of the rendering of services in the free zones, may be allowed. The exercise of this activity shall be notified in advance to the customs authorities.
- 2. The customs authorities may provide for certain prohibitions or restrictions on the activities referred to in the preceding paragraph, taking into account the nature of the goods to which the said activities relate or the need for inspection or when persons do not offer the necessary guarantees for the correct application of the provisions provided for in this Code.

Article 261

Regime applicable to goods intended for consumption

1. Goods introduced into a free zone or free warehouse from the customs territory and intended to be consumed in a process of manufacture, industrial processing or handling shall be exempt from customs duties and other charges and shall be presented to Customs and be subject to a customs declaration of export.
2. Other goods, when consumed or rendered unusable, shall be subject to payment of customs duties and other charges, and the customs procedure for introduction for free circulation shall apply.
3. Economic operators established in free zones or free warehouses are required to keep stock records, approved by Customs.
4. All goods entering the premises of the free zone or the free warehouse shall immediately be entered in the stock records, in order to enable them to be checked and inspected by Customs.
5. Stock records should also contain all movements to which the goods are subject.
6. The economic operator is obliged to make the goods and the stock records available to Customs for the purpose of full inspection.
7. The customs authorities shall carry out, at least once a year, the searches and seizures of the existing premises and may do so whenever they deem it necessary.

Article 262

Usual Manipulations

Whenever the goods have been placed in the free zone under usual manipulations pursuant to article 255 2), their nature, customs value and quantity to be taken into account for determining the amount of import duties shall, at the request of the declarant and provided

that the said manipulations have been the subject of an authorization granted, be taken into account, if at the time when the customs debt was incurred the goods had not been subjected to such manipulations.

Article 263

The release of goods from free zones or free warehouses

1. Goods leaving a free zone or free warehouse shall be declared:
 - a) For definitive export;
 - b) For release for free circulation.
2. Customs shall take all necessary measures to ensure compliance with the applicable provisions relating to definitive export or release for free circulation.

CHAPTER XI

TRANSHIPMENT

Article 264

Transshipment of goods

1. Foreign goods subject to a transshipment regime may be transferred from a ship or aircraft where they were imported to a ship or aircraft where they will be exported at the same customs office without payment of customs duties on imports and taxes or customs duties on exports and taxes, whenever provided for by the legislation in force and without being subject to commercial policy measures.
2. Subordinated to the restrictions and conditions that may be stipulated by the Minister, an advance declaration of cargo vis-à-vis transhipped goods may serve as a customs declaration for transshipment.
3. It is the responsibility of the Director-General to stipulate:

- a) The customs office where the goods may be transhipped;
 - b) The maximum period of time allowed after arrival for the export of goods subject to the transhipment procedure.
4. The customs office of transhipment shall monitor the loading and unloading operations of the goods and shall keep them under permanent supervision.

Article 265

Obligations of the importer in the transhipment

The declarant who places the goods under a transhipment regime shall be responsible for:

- a) Protecting goods unloaded from the ship or aircraft where they were imported, at sites within the customs office approved by the Director-General for that purpose;
- b) Observing any measures determined by Customs to ensure the identification of the goods;
- c) Embarking the goods in the ship or airplane where they are going to be exported from, within the stipulated term;
- d) Performing the formalities required for declaration and release of goods;
- e) Respecting the rules that may be stipulated regarding the regime.

Article 266

Discharge of the procedure

When the goods have been boarded on the ship or aircraft which exports them from Timor-Leste, the declarant's obligations are fulfilled and the discharge of the procedure is processed.

CHAPTER XII

SUPPLIES

Article 267

Supplies on board upon the entry of means of transport

1. Taking into account the conditions and restrictions that may be stipulated and the completion of the formalities required for declaration and departure, goods carried as onboard supplies on transport arriving in Timor-Leste shall be exempt from customs duties and other charges, provided that, in accordance with the provisions in the legislation in force, these supplies:

- a) Are not used before the departure of the means of transport from its last port or airport located in Timor-Leste, for purposes other than the use by passengers and crew, or for use in the means of transport;
- b) Are not landed or unloaded.

2. Customs may require the person responsible for the means of transport to take appropriate measures to prevent unauthorized use of supplies, including their sealing, when necessary.

Article 268

Different destination of the supplies

Notwithstanding the provisions of the preceding article, goods transported as supplies in means of transport arriving in Timor-Leste and duly declared on arrival may be subject to Customs authorization and to conditions and restrictions stipulated and without payment of customs duties on imports or exports, as the case may be, and other taxes:

- a) Be unloaded for temporary custody in a safe place, approved by Customs, and reloaded in the same transport for use during the route to a specific destination, located outside Timor-Leste;
- b) Be unloaded, in the same place, for immediate transfer to another transport on the same route and use during the route to a specific destination, located outside Timor-Leste.

Article 269

Provision of supplies exempt from customs export duties and taxes

1. National goods required as supplies and transported on board as such on any means of transport to a foreign port or airport may be exported free of customs export duties and taxes in the quantities stipulated by Customs, taking into account the size of the means of transport, the number of passengers and crew members and the duration of the travel.
2. The goods described in the previous paragraph should only be consumed after the authorization to leave the transport.

CHAPTER XIII RE-EXPORTATION

Article 270

Definition and requirements

1. Goods brought into the customs territory under the temporary importation procedure may be declared for re-exportation customs procedure.
2. If the customs authorities are unable to ascertain the identity of the goods from samples or signs for future comparisons taken in accordance with article 184, they shall refuse to re-export the goods.
3. Without prejudice to the penalties provided for in this Code, goods declared for the temporary importation procedure shall be taxed in accordance with the fees in force on the date of acceptance of the said declaration.
4. The goods referred to in paragraph 2 shall be declared a forfeit in favour of the State and the declarant or the owner of the goods shall bear the costs of their removal to the deposit determined by the customs authorities.

TITLE XIII DESTRUCTION AND ABANDONMENT

PROVISION OF GOODS BY CUSTOMS

CHAPTER I

ABANDONMENT AND DESTRUCTION UNDER CUSTOMS CONTROL

Article 271

General principles

1. Goods brought into the customs territory, whether they have been declared for a customs procedure or not, may, with the prior consent of Customs:

a) Be abandoned in favour of the State;

b) Be destroyed under the supervision of the customs authorities.

2. The abandonment referred to in the preceding paragraph shall be authorized by the Director General of Customs after assessing the economic or fiscal interest of such goods.

3. The Director-General shall establish the place for the storage of the goods referred to in the previous paragraph and, in case of seizure, may appoint a *bonafide* depositary.

4. When abandonment or destruction is at the initiative of the owner or declarant of the goods or, when applicable, of the person who has custody of the goods, the procedure shall be requested in writing.

5. Customs shall supervise the destruction, which shall be attended by the owner of the goods or his/her representative.

6. A record of the destruction shall be drawn up, which shall be signed by the owner of the goods or his/her representative, by the appointed customs officer and by the entity which has destroyed the goods, when this is the case.

7. The record of destruction shall contain commercial identification, the quantity of the goods and whether the destruction resulted in wastes or scraps which may be declared for another customs-approved treatment.

8. The elements set forth in the record will determine the taxation to take place, in the cases provided for in the final part of the previous paragraph.

9. The destruction or abandonment shall not entail any burden on the State, the owner or declarant being responsible for all costs incurred by Customs arising from the destruction or disposal of the goods.

10. The amounts collected from the sale of the goods constitute revenue for the State, after the application of article 276.

CHAPTER II

DISPOSAL BY CUSTOMS OF ABANDONED OR CONFISCATED GOODS

Article 272

Disposal of goods

1. It shall be considered as State property and shall be transferred to the competent authority responsible for the management and disposal of State property, in order to be alienated in accordance with the law, the goods:

- a) Considered abandoned in favour of the State pursuant to articles 142 or 203;
- b) Voluntarily abandoned in favour of the State pursuant to the terms of article 271;
- c) Declared as lost in favour of the State by the Director-General pursuant to article 368, or by a competent court, taking into account the commission of a crime or a customs infraction;
- d) Thrown from the air or sea;
- e) Salvaged from shipwreck, if the ship has been abandoned or when the master requests its

sale, in accordance with the applicable international conventions;

f) That has been found;

g) Of estates.

2. There will not be placed in the market values in kind, precious stones, jewels and credit papers found in estates, which are transferred to the competent State departments by reason of the matter and are only delivered to the owner after having paid the expenses of which they are captive.

3. In the cases provided for in the preceding paragraph, they may exceptionally be sold with permission of the Minister regardless of the price, by public auction, ten years after the date of constitution of the deposit if there has been no complaint of the interested parties and must be preceded by edicts of 90 days.

4. Goods that are in the conditions of this article, as well as those that have been expressly abandoned, will only be announced for sale when it is recognized that there is no convenience in its use for State service or for the purpose of public assistance or charity. This does not apply to estates.

Article 273

Special provisions for abandoned goods

1. The owners of goods delayed beyond the legal storage periods may dispatch them even after their sale is announced or at auction, but before they are placed in the market, if they so request, except when for this reason they have been withdrawn from the previous auction or have been expressly abandoned in favour of the State.

2. Goods dispatched under the provisions of this article, in addition to the storage costs due to their entry into auctioned warehouses, shall pay for storage traffic, announcements which have already been published and a percentage of 5% over their value which will constitute revenue of the State.

Article 274

Auction Removal Requirements

1. The requests for the removal from the auction of the goods referred to in the previous article, in order to be submitted to the dispatch, may only be granted when their owners previously deposit 25% of the rights in which the said goods are captive.

2. The interested parties who have been authorized to dispatch the goods that are in the conditions referred to in this article shall immediately deposit the amount of the duties and other charges due and the cost of the respective process, and shall, within a maximum period of three (3) days, settle the dispatch.

3. When the applicant does not deposit the difference between the amount of the total duties and other charges due on the goods withdrawn from the auction, or fails to legalize them within the prescribed period, he/she shall lose the right to such deposit, which shall be paid as an eventual State revenue and the goods will be considered expressly abandoned in favor of the State.

Article 275

Goods for State institutions

1. In cases where the seized or abandoned goods have as their final destination, an institution of the State and all contractual obligations have been fulfilled, the Director-General may authorize the permanent transfer of ownership of the goods to the said institution.

2. In the cases referred to in the preceding paragraph, whenever a tax debt arises, the Director-General shall send the information on the tax losses to the Minister for the purpose of sending it to the National Parliament along with the information on the General Budget of the State, in accordance with the legal regime on Budget and Financial Management.

Article 276

Use of the sale proceeds

1. The proceeds resulting from the sale of the goods, provided for in article 272, shall be applied successively to:

a) Pay the expenses of the sale;

b) Pay the customs duties on imports, taxes and administrative sanctions on these goods, if they exist;

c) Pay the freight or other expenses, if any, outstanding on the goods, if they are notified to the person who has their custody;

d) Pay the expenses owed to the *bonafide* depositary who holds the goods under his/her custody, if any.

2. If the proceeds of the sales referred to in this Chapter do not reach the full amount of the expenses, the debt to the State shall be preferred over all.

3. The proceeds of the sale of the seized or arrested goods shall have the destination determined in the respective process.

4. Unless otherwise provided by law, the remaining balance of the proceeds of the sale, after the payments provided for in paragraph 1 of this article have been completed, shall be deposited at the Public Treasury order.

TITLE XIV

SPECIAL CUSTOMS PROCEDURES

POSTAL ORDERS AND EXPRESS ORDERS

Article 277

Postal orders

1. Postal order, for customs purposes, is considered to be any consignment dispatched through the international postal network which does not constitute personal correspondence.

2. The provisions contained in agreements, conventions and treaties to which Timor-Leste is bound shall apply in this regard.

Article 278

Taxation

1. All goods entering the customs territory by post shall be subject to taxation and other applicable customs regulations.
2. Goods of a non-commercial character recognized by the customs authorities and those whose value does not exceed the statistical threshold defined in the Tax Law shall be exempted from the provisions of paragraph 1.
3. The provisions of this Code relating to the simplified procedure shall apply to parcels imported under the "*Admission Temporaire / Temporary Admission*" (ATA) booklets.

Article 279

Express orders

1. For the purposes of customs, express orders shall be deemed to be any consignment dispatched either through the international postal network or private companies specialized in expedited circulation regime.
2. The provisions of paragraphs 1 and 2 of the previous article are applicable to express orders.

Article 280

Customs control

Customs shall indicate to the postal service postal consignments which shall be presented to it for customs control purposes and the form of such presentation.

Article 281

Export of postal consignments

At the time of export, Customs shall not require the submission of postal consignments for customs control purposes unless they contain:

- a) Goods whose export has to be certified;
- b) Goods whose export is subject to prohibitions or restrictions or to the payment of duties and
other taxes on exports;
- c) Goods whose value exceeds the amount fixed by national legislation; or
- d) Goods that are selected for customs control in a selective or random manner.

Article 282

Import of postal consignments

Customs shall not, as a general rule, require the presentation of imported postal consignments falling within the following categories:

- a) Postcards and letters containing only personal messages;
- b) Literature for the blind;
- c) Printed paper not subject to payment of import duties and other taxes.

Article 283

Postal consignments in transit

Customs formalities shall not apply to postal consignments in transit.

TITLE XV
PRIVILEGED OPERATIONS
RELIEFS FROM CUSTOMS DUTIES

CHAPTER I
RELIEF FROM IMPORT DUTIES

Article 284

Goods with relief from customs duties

For the purposes of this Code, goods that are devoid of commercial character may be exempted from import duties under the terms of the Tax Law.

Article 285

Goods excluded from the benefit of relief from customs duty

1. Except for the limits provided for in the Tax Law for goods transported in travellers' luggage, are excluded from the benefit of relief from customs duties:

- a) Wine cellars, alcoholic and perfumery products;
- b) Tobacco, tobacco products, coffee and tea;
- c) Commercial means of transport;
- d) Fuels and propellants;
- e) New materials for professional use;
- f) Species of fauna or flora whose trade is prohibited by law or convention;
- g) Motor vehicles other than ambulances and those for personal use under the terms of this

law;

h) Goods intended for commercial purposes.

2. Alcoholic products are those classified under the tariff lines contained in the Combined Nomenclature, covering all distillates and fermented.

Article 286

Procedure for excluded goods

When, upon the arrival of the goods in Timor-Leste, they are found not to be covered by the customs duty relief summoned up by the party concerned, the ordinary procedure shall be followed, without prejudice to an appropriate period of time for improving the request or presenting missing documents.

Article 287

Relief of import duties for personal goods and household stuffing of private individuals transferring their usual residence to Timor-Leste

1. Personal goods and household stuffing imported by former residents who transferred their normal place of residence definitively into the customs territory of Timor-Leste shall be admitted free of import duties, under the conditions laid down in this diploma.

2. Only natural persons who have had a habitual residence outside the customs territory of Timor-Leste for at least eighteen (18) consecutive months may benefit from the relief.

3. The relief also covers movable property, layettes and gifts imported at the time of marriage, provided that they belong to one or both of the couple who, as a consequence of marriage, transferred their habitual residence to Timor-Leste.

4. For the purposes of the previous paragraph, the interested parties must prove the celebration of marriage.

Article 288

Personal items

1. For the purposes of this law, the term "personal items" means goods for the personal use of individuals or for the needs of their household and home, which show obvious signs of use, in accordance with the provisions of the following articles.

2. They are, in particular, personal items:

a) The household stuffing of the country of provenance;

b) Bicycles, taking into account the household, and a motorcycle, purchased and registered

on behalf of the interested parties for more than twelve (12) months in the country of provenance;

c) A private, non-commercial motor vehicle exclusively for the private use of the household

and with a maximum capacity of five passengers bought and registered on behalf of the the person concerned for more than twelve (12) months in the country of origin.

3. Personal items shall not, by its nature or quantity, translate any commercial concerns, even potential.

4. The personal items referred to in paragraph 2 c) of this article may not be lent, pledged, hired out or transferred, whether chargeable or free of charge, before the expiration of two (2) years from the date of its introduction into consumption and without the prior informed consent of the competent authorities.

5. The lending, pledging, hiring or transfer carried out before the expiry of the period referred to in the preceding paragraph shall entail the application of import duties in respect of the goods concerned, according to the rate in force on the date of the loan, pledge, hire or transfer, depending on their nature and on the basis of the customs value recognized or accepted on that date by the customs authorities, without prejudice to the application of a fine.

Article 289

Household stuffing of provenance

1. "Household stuffing" means personal belongings, household linen and furniture, household utensils and equipment, already used in the house of provenance for more than twelve (12) months and intended for use for the same purposes and needs of their new home in Timor-Leste.

2. In the list of goods to be presented prior to their arrival, there must be a reasonable and proportionate correspondence, in accordance with the provisions of this diploma.

Article 290

Personal items acquired by inheritance

1. Personal items acquired either by legal succession or by testamentary succession shall be admitted free of import duties by a natural person who has his/her habitual residence in the customs territory of Timor-Leste.

2. For the purposes of paragraph 1, "personal items" means all items referred to in article 288 which form part of the estate of the deceased, with the exception of live animals.

Article 291

Deadline for admission with relief

Except in special circumstances, relief shall be granted only for personal items declared for free circulation before the expiry of a maximum period of six (6) months from the date of application for the establishment of his/her habitual residence in the customs territory of Timor-Leste.

CHAPTER II

NON-COMMERCIAL CONSIGNMENTS

Article 292

Consignments of negligible value

1. Under the terms of this Code, consignments consisting of goods of insignificant value sent directly from abroad, on an occasional basis, to an addressee in Timor-Leste are imported free of charge.

2. "Goods of insignificant value" means goods whose commercial value does not exceed by consignment the amounts stipulated in the Tax Law.

3. Customs has the power not to apply the relief provided that, in a substantiated way, it verifies that a person or group of natural and/or legal persons are importing, abusively and repeatedly, abnormal quantities of goods for commercial purposes.

4. For the purposes of the previous paragraph, it is considered abusive the invocation of this relief more than once a month by the same person, without prejudice to whether this criterion is modified according to the nature of the goods or other evidence that reasonably presupposes a deviation from the regime.

5. The following are excluded from the scope of this exemption:

a) Alcoholic products;

b) Perfumes;

c) Tobacco and tobacco products;

d) Illegal reproductions of sound, image or computer records;

e) Jewels and precious stones.

6. When the total value of several goods exceeds by consignment the amount referred to above, relief shall be granted up to that amount for those goods which, if imported separately, would qualify for such relief, being that the value of a good may not be split.

CHAPTER III

Travellers

Article 293

Goods contained in travellers' personal luggage

1. The goods contained in the personal luggage of travellers coming from abroad are admitted free of import duties, in terms of the present diploma, in the case of imports devoid of any commercial character.

2. For the purposes of paragraph 1, the following definitions shall apply:

a) "Personal luggage" means the goods which the traveller is able to present to customs upon

his/her arrival in the customs territory of Timor-Leste, as well as those which he/she subsequently submits to those services, subject to proof that they have been registered as checked luggage, at the time of departure, at the company which transported them from the country of origin.

b) "Imports devoid of any commercial character" means imports:

i. That has an occasional character and;

ii. That refers exclusively to goods reserved for the personal or family use of travellers, or intended to be offered as gifts, and their nature or quantity should not reflect any commercial concern.

3. The relief is granted, per traveller, taking into account the amount stipulated in the Tax Law.

4. When the total value of several goods exceeds, per traveller, the amount referred to in the previous paragraph, the relief shall be granted up to those amounts for those goods which, if imported separately, would qualify for such relief, considering that the value of a good cannot be split.

Article 294

Limits for certain products

1. With regard to reliefs granted to certain goods to travellers, the relief referred to in the preceding article shall be limited, by the traveler, to the maximum amounts defined in the Tax Law.
2. Travellers under the age of 17 years shall not enjoy any relief in relation to the goods referred to in subparagraphs a) and b) of paragraph 2 of the preceding article, in the case of tobacco and alcoholic beverages, under the terms of the Tax Law.

CHAPTER IV

SCIENTIFIC OR EDUCATIONAL APPARATUS AND INSTRUMENTS

GENERAL REGIME

Article 295

Public or public-interest establishments or organizations

1. Instruments, objects, scientific apparatus and other instruments of an educational, cultural nature intended for public or public-interest establishments or organizations shall be granted exemption, provided that such entities are as such legally recognized and the imports authorized by the Minister, or by whom he/she delegates.
2. This provision shall apply in cases of direct importation by the beneficiary entities, as well as of donations by any other national or international entities, in particular, those which pursue philanthropic, scientific purposes or in the framework of cooperation.
3. The beneficiary entities must submit to Customs for each import a reasoned request addressed to the Minister and to which will be annexed the proof of their status, as well as the quality and quantity of the goods to be imported with relief.
4. This request addressed to the Minister, shall be delivered to Customs prior to the arrival of the merchandise, in duplicate, is the copy to Customs and the original to the Minister.

Article 296

Implementing provisions

For the purposes of applying the provisions of the previous article:

- a) "Equipment" means instruments, apparatus, machinery and their accessories, including spare parts and appliances specially intended for maintenance, checking, calibration or repair, used for the purpose of scientific research;
- b) "Scientific instrument or apparatus" means a device, machine or apparatus which, by virtue of its objective technical characteristics and the results which it can obtain, is exclusively or principally suitable for carrying out scientific activities;
- c) "Imported for non-commercial purposes" means scientific apparatus or instruments intended to be used for the purpose of scientific research or teaching, with no intention of profit;
- d) Relief shall be limited to scientific instruments and apparatus intended for public or public-interest establishments principally engaged in teaching or scientific research.

Article 297

Disposal of imported goods with relief

1. Scientific objects and instruments or apparatus admitted duty-free under the conditions laid down in this Chapter shall not be lent, hired out, transferred or donated, whether chargeable or free of charge, before the expiry of a period of two (2) years counted from their release for consumption and without notification by the customs authorities.
2. In the case of a loan, rental or transfer to an establishment or organization entitled to relief pursuant to articles 295 and 296, relief shall continue to apply as long as that establishment or organization uses the object, instrument or apparatus for the purposes giving entitlement to such relief.
3. In other cases, the loan, rental or transfer shall be subject to the prior payment of import duties at the rate in force on the date of the loan, the rental or the transfer, according to their

nature and customs value recognized or accepted on that date by the customs authorities.

CHAPTER V

INSTRUMENTS AND APPARATUS FOR MEDICAL PURPOSES

Article 298

Medical research, diagnosis and treatment

1. Without prejudice to the provisions of the previous Chapter, instruments and apparatus intended for medical research, the making of diagnoses or the carrying out of medical treatment offered free of charge by charitable or philanthropic organizations or by a natural person to health organizations directly dependent on the State, shall be imported free of import duties, provided that the donation of the instruments or apparatus in question does not conceal any commercial intent on the part of the donor.

2. The relief shall also apply, under the same conditions, to:

a) The specifically designed spare parts, components and accessories adapted to instruments

and apparatus provided that such spare parts, components and accessories are imported at

the same time as those instruments or apparatus or, if imported subsequently, they are recognized as being intended for instruments or apparatus previously imported duty-free;

b) The tools to be used for the maintenance, checking, calibration or repair of instruments or

apparatus provided that such tools are imported at the same time as those instruments or apparatus or, if imported subsequently, they are recognized as being intended for instruments or apparatus previously imported duty-free.

Article 299

Disposal of goods

The provisions of article 297 shall apply in respect of the loan, rental or transfer of scientific

instruments or apparatus admitted free of charge.

CHAPTER VI

GOODS SENT TO ORGANIZATIONS WITH A CHARITABLE PURPOSE

Article 300

Miscellaneous Goods

Goods, other than alcohol and tobacco, imported by charitable organizations registered under any Timor-Leste legislation promulgated for that purpose, are imported free of import duties when these goods are intended to be used for humanitarian assistance, education or health care.

Article 301

Documentary requirements

The relief shall be granted only to organizations whose accounting enables the customs authorities to monitor operations and provide all the guarantees deemed necessary.

Article 302

Disposal of goods

The provisions of article 297 shall apply in respect of the lending, hiring out or transfer of the goods referred to and imported under this Chapter.

CHAPTER VII

DONATIONS AND GIFTS RECEIVED IN THE FRAMEWORK OF INTERNATIONAL RELATIONS

Article 303

Scope of application

The following objects shall be admitted free of import duties:

- a) Imported into the national customs territory by representatives of public entities of Timor-Leste who have made an official visit to a foreign country and received them there as a gift from the public authorities that welcomed them;
- b) Sent as an offer by an official authority or by a foreign public institution, to an official authority or a public institution of Timor-Leste provided that they are approved by the customs authorities to receive such items free of duty;
- c) The donations related to buildings or improvements of buildings, granted by other countries,
or by official foreign entities, which follow the duty-free regime that is officially agreed with the State of Timor-Leste.

Article 304

Decorations and honours awarded by the honorific title

The following shall be admitted free of import duties on the basis of a statement submitted by the parties concerned to the satisfaction of the customs authorities and in so far as they concern occasional operations which are devoid of any commercial character:

- a) Decorations awarded by the governments of third countries to persons who have their habitual residence in the national customs territory;
- b) Cups, medals and similar objects of an essentially symbolic nature which, awarded in a third country to persons who have their habitual residence in the national territory, in respect of the activity carried out in areas such as the arts, sciences, sports, public service, or in recognition of their merits on the occasion of a particular event, are imported by those same persons.

CHAPTER VIII
OTHER RELIEFS FROM CUSTOMS DUTIES

Article 305

Conventional Reliefs

The reliefs provided for in this Code, in this Title and in other provisions shall not affect the relief resulting from agreements, conventions and treaties to which Timor-Leste is a contracting party:

- a) Exempt under the Vienna Conventions on Diplomatic Relations of 1961 and Consular Relations of 1963;
- b) Exempt under the Convention on the Privileges of the United Nations;
- c) Exempt under the Convention on the Privileges and Immunities of Specialized Agencies.

TITLE XVI
INCURRENCE OF CUSTOMS DEBT

CHAPTER I
CUSTOMS DEBT ON IMPORTS

Article 306

Constitutive fact

1. A customs debt on the importation of goods subject to customs duties on imports and other charges shall be incurred through:

- a) The introduction of goods in free circulation;
- b) The subjection of the goods to any customs regime, which under the terms of the current legislation does not suspend or exempt these goods from the payment of duties

and other charges;

c) The unlawful introduction of such goods into the customs territory, directly or through
a

free warehouse or a free zone;

d) The removal of such goods from customs supervision;

e) The failure to comply with obligations resulting from their temporary storage, or from
the use of the customs procedure to which they were submitted;

f) The consumption or use in a free zone or free warehouse of the goods under
conditions

other than those laid down by customs legislation.

2. Goods introduced into the customs territory, depending on the customs regime or customs-approved treatment, shall be subject to payment of customs duties, taxes, stamp duty, printing fees, general emoluments and other charges as stipulated in the customs tariff, customs emoluments schedule and other legal instruments in force.

Article 307

Time of incurrence of a customs debt

The customs debt on importation in the cases provided for in the previous article shall be incurred:

a) In the cases referred to in subparagraphs a) or b) at the time of acceptance of the customs declaration;

b) In the cases referred to in subparagraph c) at the time of irregular entry. When it is not possible to determine irregular entry, the debt shall be incurred at the time Customs notice the irregular entry;

c) In the cases referred to in subparagraphs d), e) and f), the debt shall be deemed to have been incurred, at the time of the removal of the goods from customs supervision, at the time of non-fulfilment of the obligations or at the time the goods are consumed or used.

Article 308

Chargeable person of the customs debt

1. When the debt is incurred under article 306 a) or b), the debtor shall be the declarant.
2. In the cases provided for in article 306 c), the debtors are:
 - a) The person who introduced the goods irregularly;
 - b) Any person who, having knowledge of the irregular introduction, participated in such an operation or acquired the irregularly introduced goods.
3. In the cases provided for in article 306 d), the debtors are:
 - a) The person who removed the goods from customs supervision;
 - b) The person who has participated in the removal, or who has acquired or has such goods, and was aware that such goods were or had been removed from customs supervision;
4. In the cases referred to in article 306 e), the debtor shall be the person to whom is required, depending on the circumstances, either the fulfillment of the obligations arising from the temporary storage or use of the customs procedure concerned, regarding to goods subject to customs duties, or the fulfillment of the conditions stipulating the placing of the goods under such a regime.
5. In the cases referred to in article 306 f), the person who consumed or used the goods and the person or persons who, having knowledge of the regulations in force, participated in the consumption or use of the goods, shall be considered a debtor.

6. In the event of the disappearance of the goods from a free zone or free warehouse without Customs being able to identify the person or persons who have consumed or used them, the person with the obligation to pay is the last person that Customs succeeded in identifying as a holder or possessor of such goods.

Article 309

Place of incurrence of the customs debt

The customs debt shall be deemed to have been incurred at the place where the facts giving rise to its incurrence occurred or, when that location cannot be determined, the place where the customs authorities conclude that goods in a customs debt situation exist.

CHAPTER II

CUSTOMS DEBT ON EXPORTS

Article 310

Constitutive fact

A customs debt on the export of goods subject to customs duties on exports and other charges shall be incurred through:

- a) The export from the customs territory of goods declared for such customs procedure;
- b) The removal of goods from the customs territory without a customs declaration;
- c) The removal of goods from the customs territory without the fulfilment of the conditions which exempt such goods, in whole or in part, from customs duties on exports.

Article 311

Time of incurrence of a customs debt

1. In the cases referred to in subparagraph a) of the preceding article, the customs debt shall be deemed to have been incurred at the time of acceptance of the customs declaration.

2. In the cases provided for in subparagraph b) of the preceding article, the customs debt shall be deemed to be incurred at the time of the actual exit of the goods from the customs territory.

3. In the cases referred to in subparagraph c) of the preceding article, the customs debt shall be incurred at the time when the goods arrive at a destination other than the one benefiting from total or partial relief from customs duties on exports, or at the time when the deadline for the submission of evidence that the conditions for granting such exemption have been met.

Article 312

Chargeable person of the customs debt

1. In the cases provided for in article 310 a) and c), the debtor shall be the declarant.
2. In the cases referred to in article 310 b), the debtor shall be the person who, or whoever collaborated with him/her on the removal, having been or who ought to be aware of the need to declare the goods for export, facilitated their exit from the territory without complying with this formality.

Article 313

Place of incurrance of the customs debt

Whenever the goods have been removed from the customs territory and it is not possible to determine otherwise the time at which the customs debt was incurred, it shall be deemed to be incurred at the time when Customs detects the removal of the goods from the customs territory.

CHAPTER III

COMMON PROVISIONS

Section I
Special Cases

Article 314

Other cases of incurrence of a customs debt

1. A customs debt shall be incurred even if it relates to goods whose importation into or exportation from Timor-Leste is prohibited or restricted by law, except as provided in the following paragraph.
2. A customs debt shall not be incurred in respect of the unlawful introduction of goods which cannot be marketed. However, such debt should be calculated whenever it can serve as a basis for the application of penalties in criminal proceedings.

Section II

Settlement, time limit and modalities of payment

Article 315

Settlement Record

1. Without prejudice to article 163 3), the settlement of a customs debt shall be the responsibility of Customs and shall take place as soon as they are in possession of the tax elements proper to such goods at the time of the customs debt to which it relates is incurred.
2. The amount of customs duties on imports and other charges and customs duties on exports and other charges calculated by Customs shall be immediately entered in the accounting records of Customs in the form and manner determined by the Minister.
3. The declarant may indicate in the customs declaration the amount of customs duties and other charges which he/she considers appropriate.
4. The provisions of the preceding paragraph are not binding on the customs authorities.

5. The amount of customs duties and other charges shall, in accordance with article 163, be subject to the accounting entry provided for therein.

6. When it is not possible to determine exactly when the customs debt was incurred, the time to be considered for settlement shall be the one in which the customs authorities notice that the goods are in one of the situations in which a customs debt is incurred.

7. Whenever, for reasons attributable to the declarant, the time when the debt is incurred or its settlement is deferred, compensatory interest shall be payable at the rate of 4%.

Article 316

The date for determination of duties, customs value and exchange rate

1. The amount of customs duties and other charges on goods imported or exported shall be calculated on the basis of the rate of exchange and tariff classification, rules of origin and rates of customs duties and other charges applicable to such goods:

a) On the date on which the customs declaration for the goods is accepted; and

b) In any other case, on the date of payment of customs duties or other charges.

2. If the customs declaration is submitted before the arrival of the goods in accordance with paragraph 2 of article 157, the relevant date for the purposes of this article is the date of notification of the arrival of the goods.

Article 317

Error in the settlement

Whenever Customs detects a settlement error in customs debt, resulting in overpayment or underpayment, the settlement record shall be rectified within two (2) days from the date of notification of the error to the declarant.

Article 318

Communication to the debtor

1. The amount of duties and other charges, determined after acceptance of the declaration, shall be communicated to the debtor as soon as the settlement record becomes definitive.
2. Whenever the amount of duties and other charges payable has been mentioned in the customs declaration, as an indication, the customs authorities may determine that the notification referred to in the preceding paragraph is made only in case the amount indicated does not correspond to the amount determined by them.
3. In the cases referred to in article 315 3), notification of the release of the goods shall be equivalent to the notification of the customs debt to the debtor.
4. Whenever a control *a posteriori* results in the determination of a customs debt of an amount other than that owed, by error, fault or omission of the declarant, notification to the debtor may not be done after the expiry of three (3) years from the date of the incurrence of the customs debt.

Article 319

Deadline for communication

1. No communication for payment of a customs debt shall be made to the debtor after a period of five (5) years from the date on which the customs debt has been incurred or three (3) years from the date of the settlement record.
2. When a customs debt results from an act which, at the time of its commencement, gives rise to criminal proceedings, the deadline provided for in the preceding paragraph is extended to ten (10) years.

Article 320

Payment term

1. Payment of the customs debt shall occur within a maximum period of ten (10) days from the date of notification of the amount to the debtor.
2. If the person responsible for payment is entitled to the extension provided for in the following article, payment shall be due within the period specified therein.

3. When the legal limits for payment are exceeded, the unpaid amount shall be considered as default and default interest shall be added, counting from the date the debt was incurred.

4. Default interest shall be calculated on a full calendar day, not counting the day of notification to the debtor, nor the date of payment of the customs debt.

5. The amount of default interest payable shall be calculated on the basis of the rate of 3% per month or fraction thereof on the total amount of the customs debt.

Article 321

Deferment of payment

1. The Minister may authorize a person, upon request and provision of an adequate guarantee in accordance with article 323, to defer the payment of customs duties on imports and other charges or customs duties on exports and other charges payable on the authorized goods to release for that person, but for a minimum period of fourteen (14) days up to a maximum of thirty (30) days from the date of such release. In addition, the granting of these payment facilities may give rise to the collection of incidental expenses for the constitution of the process or for services rendered.

2. The use of deferrals under this article is subject to a record specifying the timely fulfilment of payment obligations, in accordance with Timor-Leste's customs and fiscal legislation.

Article 322

Modality and place of payment

The payment of a customs debt shall be made in cash or by certified check to the order of the Public Treasury at the customs office where the declaration has been registered or as otherwise specified in the notification to the debtor.

CHAPTER IV

GUARANTEE OF CUSTOMS DEBT

Article 323

Guarantee requirement

1. Whenever, in the course of the application of customs legislation, customs require the constitution of a guarantee to ensure payment of a customs debt, that guarantee shall be provided by the debtor.
2. When the debtor is a public administration service, the bank guarantee may be replaced by a voucher for payment commitment (VPC).
3. The list of public administration services authorized to use vouchers for payment commitment shall be approved by the Minister.

Article 324

Moment of the constitution of the guarantee

1. The guarantee may be required when the goods are declared for the customs procedure.
2. The amount of the guarantee to be constituted must be equal to the amount of the debt constituted or to be constituted.
3. When the amount of the debt to be constituted has not yet been fixed, Customs shall require the provision of guarantee for the highest amount that they calculate as being susceptible to being constituted.

Article 325

Modalities of guarantee

Unless otherwise provided by customs legislation, the guarantee may be constituted in the form of a cash deposit, presentation of a guarantor under the terms of the following article, including a bank guarantee, surety bond or mortgage, or any other form stipulated by Customs, taking into account the intended objective.

Article 326

Presentation of security deposit

1. When the guarantee is a security deposit, the guarantor must undertake in writing to pay jointly and severally, at the first notice, the guaranteed amount.
2. Customs may reject the proposed guarantor when they consider that the guarantor does not present the credibility and reputation required.
3. When the customs authorities find that the guarantee provided does not prevent or fail to ensure the payment of the customs debt within the prescribed period in a secure and comprehensive manner, they shall require the debtor or his/her guarantor to provide an additional guarantee.
4. The guarantee shall not be cancelled until the respective customs debt has been extinguished.
5. The guarantor shall be jointly and severally liable with the debtor, and Customs may sue the principal debtor, the guarantor or both simultaneously.

CHAPTER V

EXTINCTION OF CUSTOMS DEBT

Article 327

Grounds

1. The customs debt is extinguished:
 - a) For payment of the amount of duties;
 - b) For waiver of payment;
 - c) For annulment of the customs declaration, in accordance with the provisions of article 161;

d) For the irreversible loss of the goods by acts of God or *force majeure*, or seized and subsequently confiscated, or abandoned in favour of the State;

e) For the destruction of the goods under customs control.

2. The prescription period for the customs debt is ten (10) years, subject to any suspension or interruption provided for by law.

TITLE XVII

REIMBURSEMENT AND WAIVER OF PAYMENT OF CUSTOMS DUTIES, TAXES AND FEES

Article 328

General provisions

1. Payment of customs duties and other charges shall be reimbursed or waived in so far as it is established that, at the time of their payment, the respective amount was not legally owed or that the settlement record was incorrectly carried out.

2. No reimbursement or waiver of payment shall be admitted on the basis of this article when the facts that led to the payment of an amount that was not legally owed occur as a result of deliberate action by the person concerned.

3. The deadline for the declarant to claim reimbursement of customs duties and other charges is three (3) years from the date on which the customs authorities notify the debtor of the amount in question.

4. When Customs notice, within the period established in the previous number, that payment as described in paragraph 1 of this article has been unduly made, they must on their initiative make the respective refund.

5. Reimbursement of customs duties and other charges shall be made by Customs within a period of one (1) year from the date of receipt of the duly substantiated refund request and provided it is accepted by Customs.

6. Customs decisions under a refund procedure shall be notified in writing to the declarant.

7. The reimbursement by the customs authorities of the amount of import duties shall not entail any payment of interest by those authorities.

Article 329

Invalid declarations

Customs duties and other taxes shall be reimbursed when a customs declaration is cancelled and the taxes have been paid. The refund must be made after Customs has decided that the customs declaration is void.

Article 330

Goods not conforming to commercial requirements

1. The total amount of customs duties and other charges paid on goods after deduction of 1% shall be refunded at the request of the importer if such goods are exported or otherwise disposed of by Customs, within one (1) year from the date of registration of the customs debt, in the following cases:

- a) Do not conform to the sample or specifications;
- b) Have been consigned without the consent of the consignee;
- c) Are considered defective at the time of importation.

2. The removal of the goods by the importer shall determine the non-application of the system of reimbursement or waiver of payment of import duties referred to in this article.

3. Goods that cannot be tested by the importer at the time and place of importation are excepted from the provisions of the preceding paragraph.

Article 331

Error in the refund

1. When Customs find out that there has been an error in the refund of customs duties and other charges, the debt initially constituted shall become chargeable.
2. The time limit for notification of the payable debt is three (3) years from the date that the error of the declarant was detected.
3. The error referred to in the preceding paragraph shall be notified to the declarant by Customs within a period of thirty (30) days from the date of its detection.

TITLE XVIII

COERCIVE COLLECTION, CUSTOMS AND FISCAL EXECUTION

Article 332

The object of the execution

The customs enforcement procedure covers the collection of the following debts:

- a) Customs duties and other charges;
- b) Fines and, where appropriate, other administrative penalties laid down in decisions on customs violations.

Article 333

Territorial jurisdiction

Customs of the domicile or of the head office of the debtor shall be responsible for the execution of the position of the goods or the settlement, except in the case of a fine for a customs violation and, where applicable, other pecuniary penalties, in which case it shall be competent Customs where the process of its application was taking place.

TITLE XIX
CUSTOMS VIOLATIONS

CHAPTER I
GENERAL PROVISIONS

Article 334
Scope and application

1. This Title applies to violations of regulatory standards for customs activity, including customs suspensive regimes and taxes benefits, import or export that are not considered to be crimes.
2. The law shall define customs tax crimes and their judicial processing.
3. This Title, irrespective of the nationality of the offender, shall apply to acts performed in the customs territory and, unless otherwise specified, to acts performed outside the customs territory when the result thereof takes effect.

Article 335
Related violations

1. If the same unlawful act or conduct is simultaneously a crime and a tax and customs misconduct, the agent shall be punished as a crime, without prejudice to the incidental sanctions provided for in the case of misconduct.

2. The facts that qualify, in whole or in part, as customs tax violations for more than one legal provision shall be punished by the provision that establishes a more severe penalty.

3. When the same fact constitutes both customs and other tax offences, such as health, safety or environmental, the penalties provided for both violations may be cumulatively provided that different legal interests have been violated.

4. Customs tax crimes are the exclusive competence of the courts and processed and decided by them, without prejudice to the judge being able to request opinions, expert reports or any collaboration with Customs.

Article 336

The possibility of punishment of the attempt

1. The attempt to commit any legally prescribed customs tax violation is punishable under the same terms as the consummated violation.

2. There is an attempt when the agent executes implementation acts of misconduct that he/she decided to commit, without them getting to be consummated.

3. The following are implementing acts:

a) Those who fulfil a constituent element of the type of misconduct;

b) Those that are suitable to produce the typical result of misconduct;

c) Those which, according to common experience and unless unforeseeable circumstances,

are such as to make them expect to be followed by related acts as indicated in the preceding subparagraphs.

4. The attempt is not punishable when the agent gives up to continue in the execution of the violation or prevents the consummation or verification of the result comprised in the type of misconduct.

5. When the consummation or verification of the result is prevented by fact independent of the conduct of the agent, the attempt is not punishable if the agent has made a serious effort to avoid one or the other.

6. The attempt shall be applied to half the limits of the legally prescribed fine.

Article 337

Persistence of obligation to pay duties and other charges

1. A person convicted of a customs tax offense and serving a sentence shall not be excused from the obligation to pay the duties and other charges due on the goods subject to the offense, except if, belonging to him/her and not being the goods on which the law decrees the loss, they abandon them with their consequent loss in favor of the State under the terms provided in the Code.

2. In the case foreseen in the final part of the previous paragraph, whenever the abandoned goods are sold, the proceeds of the sale are intended to the payment of the duties and other customs duties due.

3. The provisions of the preceding paragraphs shall apply to the conviction, acquittal or closure of the file.

4. Goods seized or placed at the disposal of Customs shall be deemed to have been abandoned in favor of the State if, after the decision of the competent authority, the dispatch formalities are not commenced within the time limits set or the duties and other charges due are not paid or guaranteed within ten (10) days, in both cases, counting from the respective notification.

5. Within the period referred to in the preceding paragraph, the interested parties may declare in writing that they abandon the goods in favour of the State or request their re-exportation.

6. Settlement of customs revenue and dispatch procedures for goods and means of transport subject to customs tax violations shall be the sole responsibility of Customs.

Article 338

Third Party Representation

1. The person who acts voluntarily as the holder of the organs of a legal person, company or mere *de facto* association, or in the legal or voluntary representation of another person, is subject to the application of sanctions corresponding to the violation of customs rules, even when the respective type of violation requires:

- a) Certain personal elements and these are only found in the person of the represented;
- b) That the violator practices the fact in his/her own interest and the representative acts in the
the interest of the represented.

2. The ineffectiveness of the act that serves as the basis for representation does not prevent the application of the provisions of the previous paragraph.

3. There is no responsibility of the representative who proves:

- a) That he/she did not participate in the unlawful act committed by the represented or third party;
- b) That, not having participated in the unlawful act, but having known its practice, he/she communicated it to Customs;
- c) That he/she acted diligently at all times of the customs process.

Article 339

Liability of legal persons and equivalent

1. A legal person or an association of persons is responsible for practices of customs violations when practised by its governing bodies, managers, administrators or representatives, on its behalf or in the corporate interest.

2. This responsibility is considered excluded when the violating agent has acted against

express orders issued by the legal person and equivalent.

3. The liability of the entities referred to in paragraph 1 of this article does not exclude the individual liability of violators.

4. When an administrative sanction is imposed on a legal person and equivalent, the assets of the company are liable for such sanction and, in their absence or insufficiency, the property of each partner is jointly and severally liable.

5. If the sanction is applied to an entity without legal personality, the joint property will be responsible for such sanction and, in its absence or insufficiency, the property of each of the members is jointly and severally liable.

Article 340

Responsibility for payment of an administrative penalty

1. Employers of agents who have committed customs offences shall be jointly and severally liable for the payment of the amount equivalent to the administrative penalty imposed on the employees, except when they demonstrate that they have performed the acts necessary for compliance with the law.

2. The liability is joint and several, that is, of both employer and employee, for the total amount to be paid in respect of customs duties and other charges.

3. The provisions of the preceding paragraphs shall apply to parents and legal representatives of minors under the general law and to persons with psychic anomalies in relation to any infraction committed by the latter.

4. The provisions of paragraphs 1 and 2 of this article shall apply to natural persons, legal persons and associations of persons.

5. If the legal person or association of persons concerned no longer exists at the time the suit is filed, the individuals who were its partners are jointly and severally liable for administrative penalties, customs duties and other charges due.

Article 341

Processing of the administrative penalty on customs duties

Unless otherwise provided, articles 315 to 322 shall apply equally to any administrative penalty established in this Title behaving as if it were a customs duty, as regards its processing.

Article 342

Guarantee of Payment

1. Goods, means of transport and other valuables seized from suspects or defendants shall guarantee the payment of fines or penalties that may be imposed in the respective criminal or customs process.
2. Upon completion of the criminal or customs violation process, the same goods, means of transport or valuables shall guarantee the payment of the customs tax debt that will be settled and collected by Customs.
3. If such goods, means of transport or valuables belong to persons without any responsibility for the offence, they shall only be responsible for the amount of the customs tax relief required of them.

Article 343

Payment in instalments

1. Taking into account the particular circumstances of each case and the safeguarding of the public interest, the Minister may, on a proposal from the Director General, authorize the payment of an administrative penalty in monthly installments up to a maximum of twelve (12) and the value of each instalment cannot be less than US\$ 100 for natural persons and US\$ 1000 for legal persons.
2. Authorization for payment in instalments shall be subject to the presentation of a bank guarantee, cash deposit, security deposit or mortgage, to be provided by the applicant, in the total amount equivalent to the penalty to be paid.
3. Payment in instalments may be requested at any time in the proceedings and, once granted, suspends the execution of the debtor's assets.

4. The amount to be divided into instalments does not include default interest, that continues to be due in relation to the outstanding debt included in each instalment and up to full payment, which will be included in the guide passed by the official for payment together with the instalment.

5. Failure to pay any instalment implies the expiration of the remainder if, within ten (10) days from the notification to that effect, the executor does not pay the unpaid instalments, continuing the tax foreclosure process until its end.

6. The guarantee can only be withdrawn when the total amount of the administrative penalty has been paid.

7. The entity that has provided the guarantee will be summoned to pay the remaining debt up to the amount of the guarantee provided, within thirty (30) days, failing which it will be executed in the process.

Article 344

Requirements of the request

1. In the application for payment in instalments, the executor shall indicate how he/she proposes to make the payment and the reasons for the proposal.

2. After receipt and instruction of the requests with all the available information, they are immediately appraised by the tax enforcement body or, if necessary, sent immediately after receipt for a higher sanction, and payment of the first instalment must be made in the month following the month in which the order is notified.

3. If the request for payment in instalment complies with all legal requirements, it must be subject to immediate authorization by the body considered competent under the terms of the previous article, being the applicant notified of that fact and of the fact that, if he/she wishes to suspend the execution and regularization of his/her tax situation, a suitable guarantee must be established or provided in accordance with the terms of the previous article.

4. If it is ascertained that the application for payment in instalments does not comply with the legal conditions on which its authorization depends, it shall be rejected immediately, with notification to the applicant of the grounds for that rejection.

CHAPTER II

COMMON PROVISIONS TO CUSTOMS TAX VIOLATIONS AND ADDITIONAL SANCTIONS

Article 345

Determination of administrative penalty amounts - aggravating and mitigating

1. The amount of an administrative penalty shall be determined on the basis of the seriousness of the offense and of the degree of fault of the offender and subject to the maximum amounts for administrative penalties provided for in this Title and shall, whenever possible, exceed the economic benefit that the violator obtained with the practice of the violation.

2. The maximum amounts of the administrative sanctions defined in Chapter II of this Title are adjusted as follows:

- a) When goods subject to a customs offence are goods whose importation or exportation is prohibited by law or subject to selective consumption tax, the maximum amount of the applicable administrative penalty shall be doubled;
- b) When the administrative penalty is imposed on a legal person or an association of persons,
the maximum amount of the applicable administrative penalty shall be doubled;
- c) When the goods subject to a customs offence are goods whose importation or exportation
is prohibited by law or subject to selective consumption tax and the administrative penalty
is imposed on a legal person or association of persons, the maximum amount of the applicable administrative penalty shall be quadrupled;
- d) When goods which are the subject of a customs offence consist wholly or in part of
items
of considerable historical or artistic interest whose value exceeds US\$ 1,000, the

maximum

amount of the applicable administrative penalty shall be tripled;

e) When the goods are listed in the Annexes to the Convention on International Trade of Wild

Fauna and Flora, the maximum amount of the administrative penalty shall be tripled.

3. When two or more subparagraphs of the preceding paragraph of this article are applicable to an offence, the higher administrative penalty amounts serve as a basis for determining the penalty.

4. Without prejudice to paragraph 2 of this article, when the object of the administrative infraction is goods whose value does not exceed US\$ 50, an administrative penalty of US\$ 20 up to US\$ 100 shall apply.

5. In the event that the offender voluntarily communicates to Customs the circumstances of the violation prior to its finding by Customs, the Director-General may consider such confession as an attenuating factor for determining the amount of administrative penalty to be imposed on the offender.

Article 346

Additional sanctions

Together with the fine provided for in the legal type of customs infraction, one or more of the additional sanctions established in articles 347 to 353 may be applied to the offender.

Article 347

Temporary prohibition on the exercise of certain activities and professions

1. The prohibition of the exercise of certain activities may be determined by the Minister upon a substantiated proposal by the Director-General:

a) To official dispatchers, their assistants and practitioners, private dispatchers and customs

agents engaged in customs violations;

b) To aircraft commanders or crew, captains, masters, taskmasters, patrons or crew of ships or any vessels engaged in customs violations;

c) To land transports operators engaged in customs violations.

2. The prohibition of exercising a profession or activity can only be determined by the practice of misconduct and shall not exceed more than three (3) years counted from the final conviction.

Article 348

Temporary prohibition on participating in fairs, markets, or public auctions of goods

1. The Minister may prohibit participation in fairs, markets or auctions of goods, upon a reasoned proposal by the Director-General.

2. The prohibition referred to in the preceding paragraph may not last more than three (3) years counted from the final conviction.

3. The decision may limit this prohibition to certain fairs, markets, auctions and foreclosures or to certain territorial areas.

Article 349

Suspension of tax benefits or inhibition of obtaining them

1. Anyone who is convicted of an offence under this law may be punished with the suspension of customs tax benefits, in particular, customs tax exemptions, as well as being prohibited from obtaining or renewing any others.

2. The sanctions referred to in paragraph 1 shall have a maximum duration of three (3) years counted from the final conviction.

3. The decision may limit this suspension to certain benefits or customs tax regimes and shall be pronounced by the Minister, upon a reasoned technical opinion of the Director General of Customs.

Article 350

Revocation of licenses or concessions and suspension of authorizations

The Minister may, upon a reasoned proposal by the Director-General, authorize the revocation of licenses or concessions and the suspension of up to three (3) months of authorizations for the approval and granting of suspensive or simplified customs procedures, including warehousing customs, provided that the offence has been committed in the use of such licenses, concessions or customs authorizations.

Article 351

Closure of warehouses or of customs deposits

1. Any person found guilty of committing an offence under this Code may be punished by the closure of warehouses or customs deposits for a period of up to three (3) years, by order of the Minister, upon a reasoned proposal by the Director-General.

2. The application of the additional sanction provided for in the preceding paragraph shall not prevent the transfer of the warehouse or deposit or the transfer of rights of any nature related to the exploitation of those, carried out after the filing of the proceeding or before this but after the commission of the violation, except if, in the latter case, the purchaser is in good faith.

Article 352

Additional sanctions to legal persons and equivalent

The additional sanctions referred to in the previous article and in the terms mentioned herein are applicable to legal persons and equivalent, with the necessary adaptations.

Article 353

Assumptions for the application of additional sanctions

1. The sanctions referred to in the previous articles may only be applied when:

- a) The objects were used or were intended to be used for the practice of misconduct, or were produced by it;
- b) The agent engaged in the misconduct with flagrant and serious abuse of the function he/she performs or with a manifest and serious violation of the duties that are inherent to him/her;
- c) The misconduct has been practised in the exercise or because of the activity in favour of which the benefit is attributed;
- d) The misconduct has been practised during or because of participation in a fair or market;
- e) The misconduct has been practised during or because of public acts or in the exercise or because of the activities.

2. The determination of the concrete measure of additional sanction is made taking into account the nature of the offence, damage or risk derived therefrom, the degree of unlawfulness and fault, the antecedents and economic capacity of the offender.

CHAPTER III

FISCAL AND CUSTOMS VIOLATIONS IN PARTICULAR

Section I

Typification

Article 354

Importation or Exportation contrary to law

It is punishable by administrative penalty, in the value of the concerned goods, who, contrary to the provisions of the customs legislation and subsidiary legislation:

- a) Introduces in Timor-Leste goods without due process of customs formalities, including the attempt of;
- b) Exports goods from Timor-Leste without completing customs formalities, including the attempt of;
- c) Does not declare to Customs the goods transported in person, or in the luggage upon entrance to or exit of Timor-Leste, including the attempt of;
- d) Removes goods from an area under customs control, a free zone or a free warehouse prior to their release, or other authorization issued by Customs, including the attempt of;
- e) Acquires or receives goods that the person knows, or should know, that they are the object of one of the violations or crimes described in subparagraphs a) to d).

Article 355

Evasion of customs duties and other charges

It is punishable by administrative penalty, by three times the value of customs duties and other charges on the goods involved, who, contrary to the provisions of the customs legislation:

- a) Does not indicate in the customs declaration the correct, true or complete information as to the type, quantity, tariff classification, value or origin of the goods or does not declare all goods, resulting in a customs debt lower than the real one;
- b) Provides false information and thereby obtains a reduction, exemption or refund of customs

duty or tax, including the attempt of.

Article 356

Administrative violations

1. It is punishable by an administrative fine of US\$ 500 up to US\$ 5,000, who, contrary to the provisions of the customs legislation:

- a) Does not keep records requested, or refuses to deliver, display or present such records, including accounting, declarations and documents for verification by Customs;
- b) Does not submit a cargo declaration within the stipulated deadline;
- c) Does not include or describe in the cargo declaration any goods found on board of a means of transport or after the landing of that means of transport;
- d) Unloads or tranships goods without the permission of Customs, or at locations not designated or approved by Customs, including the attempt of;
- e) Transports goods brought to or in transit through Timor-Leste on a route other than that specified by Customs, or against Customs instructions, including the attempt of;
- f) Is the person who brings the goods into the customs territory or the person responsible for their transport after being brought into the customs territory does not inform Customs of the arrival of such goods or report on all quantities of the goods unloaded or refuses to present goods to entities with jurisdiction to investigate and instruct the violation provided for in this diploma, when it does not constitute a crime;
- g) Uses goods in temporary deposit storage contrary to conditions approved by Customs;

- h) Obstructs the verification of a customs declaration accepted by Customs;
- i) Makes a customs declaration with incorrect or incomplete information regarding the type and quantity of goods, identification of the parties, identification of the type of transport, commercial or transport documentary references, permits, authorizations or licenses, regardless of whether such incorrect or incomplete information affects or not the calculation or payment of the customs debt;
- j) Does not comply with any conditions or obligations stipulated in any authorization granted by Customs, or established in this Code or stipulated for use in a customs regime and, in the case of suspensive regimes, the legal discipline of the same is violated and such behaviour should not be considered as a crime;
- k) Does not notify Customs when the export of goods declared for export is cancelled, as required under article 234;
- l) Does not present the goods placed under the transit procedure and the documents required at the customs office of destination in accordance with the provisions of that procedure;
- m) Is the person responsible for the carriage of goods under customs supervision in the customs territory and does not declare the goods carried in accordance with article 232, or does not present all the goods referred to in the accompanying documents to Customs at the place of destination or carries the goods without the processing of competent shipping documents or others legally required or without the application of stamps, marks or other signs legally required, including the attempt of;
- n) Removes or destroys the customs seal, or other fastening device or identification marks,

including the attempt of;

o) Obstructs customs supervision of activities in a free zone or free warehouse, including the attempt of;

p) Carries out activities in a free zone or free warehouse contrary to the provisions of customs

legislation or without the authorization of Customs, including the attempt of;

q) Transmits, receives or accesses the customs information system without authorization, including the attempt of.

2. The same fine referred to in the preceding paragraph shall apply to any person who, by any means, prevents or obstructs any ordered examination or check of goods by a competent customs official.

3. When the acts described in paragraph 1 of this article do not result from the intentional or negligent act or omission, an administrative fine of US\$ 250 to US\$ 2,500 applies.

Article 357

The violation in the transport of goods under a suspensive procedure

1. It is punishable with an administrative sanction of US\$ 1000 to US\$ 10,000 any person who, in the course of the carriage of goods dispatched under a suspensive procedure:

a) Subtracts or replaces goods transported under such arrangements;

b) Changes or renders ineffective means of sealing, security or customs identification in order to violate the law;

c) Does not observe the prescribed itineraries, in order to avoid or escape supervision.

2. The attempt is punishable.

Article 358

Destruction of goods

1. Anyone who, being the owner, the authorized depository or carrier of any goods seized under this legal provision, destroys, damages or renders useless such goods during the seizure or at a later time, shall be subject to punishment by an administrative penalty corresponding to twice the value of the merchandise.

2. The same fine shall apply to a person who, after becoming aware of the initiation of an investigation, or of another action against him/her or a co-offender, in respect of an offense under this Code, destroys, alienates or encumbers any goods who have been seized or arrested as security for payment of the amount due for a customs or tax debt, even if such debt is attributable only to the co-offender or another debtor.

Article 359

Fraud in obtaining customs tax benefits

1. Whoever intentionally obtains a tax benefit or advantage for himself/herself or others violating customs laws and in such circumstances, by any means, misleads Customs shall be punished with an administrative penalty of 10%, calculated on the customs value of the goods.

2. The limits of the fine provided for in the preceding paragraph shall be increased to double when applicable to violations practised under the following special regimes:

a) Importation of motor vehicles belonging to private individuals;

b) Importation, with any exemptions, of goods, intended for social, cultural or philanthropic

purposes, when they are diverted for trade or for other purposes, in violation of their social regime.

3. In the case of goods subject to selective consumption tax, in accordance with article 356.

Article 360

Credit frustration

1. Anyone who, after the initiation of an investigation or proceeding for a customs violation, and with the purpose of frustrating, in whole or in part, the coercive collection of any amounts owed to the State for the practice of such violation and for whose payment he/she shall be declared liable, in any way sells, disposes or encumbers his/her assets, is liable to an administrative penalty of 20% calculated on the customs value of the goods.

2. Anyone who, upon learning that an investigation or a criminal proceeding or a misconduct has been brought against him/her in respect of a violation or an offence, signs acts or contracts that alienate or encumber his/her assets with the intention and effects referred to in the preceding paragraph, is subject to an administrative penalty of equal amount.

3. The facts described in this article shall not be sanctioned if, in the meantime, the sums due are paid in full in the course of the proceedings and within a period fixed for that purpose.

Section II

Seizure, confiscation and arrest

Article 361

Seizure of goods

1. Goods subject to customs taxation, as well as means of transport, weapons and other instruments used in the commission of such offences or intended to be used for that purpose, shall be seized and stored in accordance with article 370. °

2. There shall be declared confiscated and be seized by Customs any goods which:

- a) Are stolen, smuggled, clandestinely imported or introduced into, or exported, including the attempted to export, from the customs territory;

- b) Whose import or export is prohibited by law;
 - c) Are narcotics, waste, toxic materials, including food, adulterated vaccines or medicines unfit for consumption or harmful to public health, imported or otherwise exported against the law;
 - d) Whose importation or exportation requires a permit, license or other authorization according to the law and such permission, license or authorization has not been obtained;
 - e) Are imported and the notification of arrival of such goods to Customs has not occurred, in non-compliance with the obligations, under the customs legislation.
3. Customs shall immediately inform the Minister and the competent State services on the seizure of goods whose importation or exportation is prohibited by law.

Article 362

Seizure of goods subject to an administrative penalty

1. When the Director-General has sufficient grounds to believe that a person has committed an administrative violation punishable by administrative sanction under this Title and that person is insolvent or outside the jurisdiction of Timor-Leste, or such seizure is anyway essential to protect the collection of revenue, he/she may order that the goods involved in such violation be seized and, after determination and final decision of an administrative sanction under this Title, be confiscated, unless the administrative penalty is paid within the term provided by law.
2. The Director-General may authorize the return of the goods upon deposit of a guarantee that shall not exceed the maximum amount of the administrative penalty that may be settled.
3. The proceeds of the sale of the confiscated goods in excess of the value of the administrative penalty and the costs of seizure, maintenance and sale shall be retained on behalf of any interested party.

Article 363

Seizure of means of transport and instruments

1. Any means of transport, weapons or other instruments used to assist or facilitate, by obtaining information or, otherwise, the import, entry, unloading, landing, removal, concealment, transport or export of goods subject to seizure under article 361, through such means of transport or otherwise, shall be seized and confiscated.
2. The seizure of any means of transport may be replaced by a guarantee, security deposit or cash deposit in the amount equivalent to the value of that means of transport.
3. The confiscation of means of transport, weapons and other instruments that are seized according to paragraph 1 of this article, can only be declared by judicial decision.

Article 364

Restitution

1. Except when the law prohibits their return, goods, means of transport and other instruments which have been seized under customs legislation shall be returned to the owners:
 - a) As soon as the court makes a final decision in favour of the applicant, which is final, or as soon as the Public Prosecutor refrains from prosecuting or Customs files the case and it becomes clear that there is no customs debt;
 - b) As soon as the costs of detention, conservation, storage and transport are paid or secured, and the customs debt is guaranteed or paid, together with the administrative penalty, if any.
2. In the cases foreseen in the previous paragraph, Customs must decide on the customs debt, and on the possible authorization for re-exportation of the goods.

Article 365

Arrest and security deposit

1. The goods, luggage or any amounts that, although not respecting the process, the defendants have in Customs, in customs deposits or in free regime deposits and in any other places under fiscal action, or of which they are receivers or consignees, provided that they are their holders, are considered to be arrested for guarantee of payment to the State and cannot be delivered as long as their value is not secured, guaranteed.

2. If the guarantee referred to in the preceding paragraph is not provided, the goods whose knowledge, bills of lading or any property titles have been endorsed by the defendants or liable persons, after notification of the order of pronouncement or equivalent, shall not be delivered.

CHAPTER IV

PROCEDURE

Section I

On notification of the violation, deposit and destination of goods

Article 366

On official report and participation of the violation

1. Customs officials and any authorities or agents of the authority, when they witness any customs violation, seize the goods, means of transport or instruments of the violation, which must be delivered to Customs, in accordance with the provisions of article 370 and, when this corresponds to a sentence of imprisonment, they detain the offender in *flagrante delicto* and present him/her to the competent judge in the shortest possible time, in any case drawing up the relevant official report with a copy to the nearest Customs or to Customs Directorate, as appropriate.

2. The persons referred to in the previous article who are aware of facts that, in their opinion, may constitute tax violations must participate them in writing to Customs.

3. Both the official report and the participation shall contain, whenever possible, a complete

indication of the facts, day, time and place in which they were practised and circumstances that accompanied them, reasons on which the participant is based to understand that they constitute a tax violation, name, state, profession, age, place of birth and residence or any other elements which serve to identify who has practiced them or to whom any responsibility may be attributed thereto, persons who are aware of them and can testify to them, quality, quantity, value and presumed destination of the goods, means of transport, weapons and other instruments to which the possible violation respects and everything else that can contribute to the detection and punishment of the violation.

4. Whenever the proceedings are instituted on the basis of a document other than the official report and without prejudice to the provisions of article 372, as regards the exemption of instruction and inquiry, the investigation and instruction in the proceeding is indispensable, in order to collect elements that demonstrate the effective practice of the violation, its constituent elements and the degree of guilt of its agent.

Article 367

Notice of seizure

1. When customs officials seize any goods under customs legislation, they shall notify in writing the owner of the goods and other persons concerned of the seized goods, of their intention to confiscate and dispose of the goods in accordance with the law, along with an explanation of the reasons of seizure and rights of appeal under the Code.

2. Such notification shall be effected as early as possible, and not later than ten (10) days after the date of seizure.

Article 368

The loss in favour of the State

1. Goods seized in accordance with the provisions of this Code shall be declared as lost in favour of the State by the Director-General when:

- a) No appeal is lodged after notification of the seizure;
- b) Any appeal filed under this Code is denied and no judicial appeal is filed in accordance with the terms and deadlines stipulated by law.

2. The declaration of loss under this article shall produce the same effects as the final decision of loss in a judicial confiscation proceeding ordered by a competent court.

Article 369

On prescription and decision of the proceedings

1. The procedure for customs tax violations provided for in this diploma shall be extinguished as a result of the prescription, once five (5) years have elapsed.

2. The prescription of the fine involves the prescription of the additional sanction that has not yet been executed.

3. A decision on the acquittal or imposition of a fine must be given within twenty (20) days of the presentation of the defence or contestation of the defendants, except in very complex cases or when expertise or other investigations are pending.

Article 370

Deposit of seized goods in customs facilities and immediate sale

1. Goods, means of transport, weapons and other instruments of the violation seized in accordance with customs legislation shall be deposited in the customs premises, unless the latter, for lack of space, cannot receive them.

2. When goods referred to in the preceding paragraph are deteriorating, perishable or when the public interest or public health so justify, the Court and the competent authority responsible for the management and disposal of State assets in other violations may authorize, upon proposal from Customs, the destruction, sale or total or partial donation of such goods to a charity.

3. Sales transactions must be carried out in accordance with applicable laws and the proceeds of the sale must be deposited in the order of the respective process.

4. Once an appeal has been made on the seizure of the goods sold under this article and the confiscation considered to be unfounded, the owner of the goods must receive the proceeds of the sale, to which will be deducted the amount of any administrative penalty that is due.

5. If the judicial decision does not decree the loss and the acquittal of the owner takes place, the injured party will be given the proceeds of the sale.

6. The preceding paragraph shall apply when there is no fine in the customs procedure.

Article 371

Other forms of deposit

1. When goods, means of transport, weapons and other instruments which have been used in the commission of the violation cannot be transported immediately to the customs premises or cannot be received here, such items are listed and described in light of their quality, quantity and value, and shall be delivered to a suitable authorized depositary, with the exception of weapons, which shall be under the custody of agents of authority, and the respective term shall be ploughed, signed by the officials who seized them, witnesses, if any, and *bonafide* depositary, the duplicate remaining with this latter.

2. In the absence of a suitably authorized depositary at the place of seizure, the seized goods and other assets shall remain in the custody of agents of authority.

3. When, in the event of seizure of livestock, the owner or the carrier is unknown, or if the owner refuses to act as a *bonafide* depositary, the animals seized shall be the responsibility of the competent authority.

Section II

On acts and powers in customs procedures

Article 372

Exemption and obligation of instruction and inquiry in customs procedures

1. There shall be no instruction or inquiry in respect of violations committed in the course of customs clearance procedures and formalities, or proven in them, provided that both contain the information necessary for the decision, including means of proof.

2. There shall also be no instruction or inquiry whenever the official report or participation

contains:

- a) The facts integrating the violation and the same have been witnessed by the plaintiff or participant;
- b) Sufficient elements to determine who committed the violence and the persons subject to civil liability, if any, and for the clarification of their responsibilities.

3. Notification of the decision in accordance with article 64 may not take place without the defendant having been heard before, and without him/her having been given the opportunity to challenge and add any evidence he/she sees fit, being also warned that he/she may immediately request the voluntary payment and the settlement provided for in articles 374 and 375 of this Code.

4. In cases where the investigation is to take place and if the defendant does not immediately request the voluntary payment of the customs debt and the fine, he/she shall be notified that he/she has five (5) days to join the defence and, upon receipt of the defence, the competent authority decides whether or not it detracts from the probative value of the official report or the participation and, accordingly, acquits or condemns the accused to pay a fine, setting a period of five (5) days for such payment.

5. The decision must be substantiated, explaining the reasons for its meaning and must be delivered within the referred maximum period of twenty (20) days after the contestation has been filed, this period may be extended in cases of great complexity.

Article 373

Entities competent to impose administrative sanctions

1. Without prejudice to the fact that before the final decision is given the hierarchically superior entity is able to challenge the proceeding, the following entities are competent for the processing of the violations provided for in this diploma and for the application of the respective fines:

- a) The Director of Customs at international ports and airports throughout the customs territory, being possible to delegate this competence and customs tax violations in

customs procedures for which no final decision has yet been issued;

b) Customs Directors and heads of customs posts in their respective jurisdictions.

2. Territorial jurisdiction shall be determined by the location of the seizure or, failing that, by the place where the customs tax violation was committed or yet if this is not known, by the head office of the entity that first becomes aware of that violation.

3. The decision on the application of fines and additional sanctions to customs warehouses of fuels and, in general, involving energy products essential to the Country, is the responsibility of the Director General, admitting an appeal to the Minister.

Section III

Voluntary payment and assessment request

Article 374

Voluntary payment

1. The voluntary payment of administrative penalties corresponding to customs violations provided for in this Code is permitted.

2. The offender may make a voluntary payment to the investigating authority immediately or within five (5) days from the date of receipt of the notification imposing an administrative penalty.

3. The voluntary payment shall be 25% of the maximum applicable amount of the administrative penalty, without prejudice to the obligation to pay customs duties and other charges or fees, or the decision that the Customs may take to suspend or revoke any licenses or authorizations provided for in this Code.

4. With the voluntary payment of the administrative penalty, immediately or up to two (2) days after the date of submission of the application, and once the customs duties and other

taxes and charges are assessed, the goods seized pursuant to article 362, in order to ensure payment of the fine, shall be returned to the owner or his/her legal representative, with the exception of weapons and other goods whose importation is prohibited by law, pursuant to this Code.

Article 375

Assessment request

1. With respect to the violations provided for in this Code, the violator may request, at any time during the proceedings, but before the final decision, the assessment and payment of all amounts for which he/she is liable, and the competent entity, after hearing the violator, immediately pronounces its decision, establishing a sanction or acquitting the violator.
2. The proceeding may pursue another violator or other responsible persons.

TITLE XX

FEES FOR CUSTOMS SERVICES

Article 376

Fees

1. The payment of fees for the rendering of Customs services for the benefit of a particular person, in relation to the following acts, is stipulated by ministerial diploma:
 - a) Loading or unloading of goods in places other than those designated for that purpose or outside normal working hours, where permitted under customs legislation;
 - b) Declaration, verification or release of goods, on request, outside normal working hours,
or
at locations other than designated customs offices, where permitted under customs legislation;
 - c) Access to, or movement or sampling of goods in a customs warehouse or temporary warehouse by the owner or importer, where Customs presence is required;

- d) Authorization, issuance or renewal of a license, according to this Code;
 - e) Provision of copies of forms, or documents at the request of a person;
 - f) Examination or sampling of goods for the purpose of verification or destruction of goods where there are costs other than those relating to the use of Customs officials;
 - g) Storage of goods in public customs warehouses under the management of Customs; or
 - h) Use of the customs information system provided that the amount of the fees imposed does not exceed the approximate amount of administrative expenses and costs of the service provided.
2. The provisions of article 63 of this Code shall apply, *mutatis mutandis*, to the imposition of any new fees or alteration of existing fees and to the information provided in the preceding paragraph.
3. With regard to the updating of the amounts in articles 377 to 381, they shall be updated by the ministerial diploma.

Article 377

Shipment and dispatch on commercial vessels

1. For the shipment, control and departure of each vessel that carries out the commercial operation of goods or passengers, except for military vessels and local artisanal fishing, customs emoluments of US\$ 100 per vessel shall be due.
2. For onboard visits, seals, verifications, assistance and volume checks, a global emolument of US\$ 50 per each customs declaration processing will be due.
3. On Sundays, holidays or nights of any day, the emoluments referred to in the previous paragraph will be due in double.

Article 378

Entry and exit of commercial or recreational aircraft

1. For the shipment, control and departure of each commercial or recreational aircraft, that carries out the commercial operation of goods or passengers, except for the military, customs emoluments of US\$ 100 per aircraft are due.
2. For onboard visits, seals, verifications, assistance and volume checks a global emolument of US\$ 50 for each customs declaration processing will be due.
3. On Sundays, holidays or nights of any day the, emoluments referred to in the previous paragraph will be due in double.

Article 379

Entry and exit of commercial road haulage vehicles

1. For the customs file and fiscal clearance for the entry of goods, for each commercial vehicle and for each processing of customs declarations:
 - a) At Customs or customs office, at normal office hours, emoluments of US\$ 25 are due;
 - b) Elsewhere, the amount of US\$ 50 is due.

Article 380

Cars and luggage

1. For the customs file and fiscal clearance of unaccompanied luggage, emoluments of US\$ 10 are due.
2. For the customs file and fiscal clearance of motor vehicles, with the exception of bicycles and motorcycles, emoluments of \$ 25 are due.
3. For the customs file and fiscal clearance of motorcycles, emoluments of US\$ 15 are due.
4. On Sundays, holidays or nights of any day, the emoluments referred to in the previous

paragraph will be due in double.

5. In the case of luggage or motor vehicles exempt from duties by law, no customs emoluments shall be payable.

Article 381

Denaturation, staining, fiscal marking and destruction of goods

1. For each assistance and operation, including the tax sealing, emoluments of US\$ 10 are due.

2. On Sundays, holidays or nights of any day, the emoluments referred to in the previous paragraph will be due in double.

Article 382

Displacement at the request of the parties

1. In services at the request of the taxpayers and on account of them provided outside the premises of the respective Customs, the displacement of employees gives rise to the following emoluments:

a) Up to a total of 40 kilometres covered, US\$ 25 are due;

b) Up to a total of 100 kilometres covered, US\$ 50 are due;

c) More than 100 kilometres covered, US\$ 75 are due.

2. In case the trip involves an overnight stay, US\$ 30 are due.

Article 383

Amounts paid less

1. When in the final check services, amounts paid in short to the State in more than US\$ 50 are found out, emoluments will be charged in the amount of US\$ 10 per statement.

2. On Sundays, holidays or nights of any day, the emoluments referred to in the previous paragraph will be due in double.

Article 384

Prohibition and liability of employees

1. Employees are expressly prohibited from receiving emoluments in cash from taxpayers.

2. The collection of emoluments provided for in this Code binds employees to their permanent availability, which is understood as their obligation to comply with orders that are superiorly determined to them within or outside normal working hours or normal workplaces.

TITLE XXI

FINAL PROVISIONS

Article 385

Count of deadlines

1. The deadlines set forth in the present diploma are counted according to the terms of the Code of Administrative Procedure.

2. For the purpose of counting deadlines, any reference expressed in this diploma to days means business days.

Article 386

Regulation

1. Without prejudice to the provisions of this Code, the member of the Government

responsible for the Customs area shall approve by a ministerial decree the necessary regulations for its execution.

2. All legislation approved in the area of customs must promote articulation with the regime established in this Code.

3. The regulations set forth in paragraph 1 of this article shall be approved within a maximum period of one year from the date of publication of the present diploma.

Article 387

Measures of Implementation

The Director-General may establish additional or supplementary standards or directives of general applicability that are not inconsistent with the Minister's regulations as he/she deems necessary for the correct implementation of the provisions of this Code.

Article 388

Additional Legislation

Without prejudice to the provisions of this Title, as long as the complementary legislation provided for in this Code has not been published, the corresponding diplomas that do not contravene the provisions of this Code shall remain in force.

TABLE 1

CUSTOMS VALUE OF IMPORTED GOODS

1. INTERPRETATION

1. In this table:

"Buying commissions" means the amounts paid or payable by the buyer to his/her agent by the representation service abroad against the purchase of the goods subject to evaluation.

"Calculated value" means the amount determined in accordance with clause 7 of this Table.

"Exporting country or country to where the goods are exported" means the country from which the goods are shipped directly to Timor-Leste or, as the case may be, the country from which the goods are deemed to be shipped under this Table.

"Deductible value" means the amount determined in accordance with clause 6 of this Table.

"Goods of the same class or type" means imported goods which:

- a) Are in a group or variety of imported goods produced by an industry or a particular industrial sector that includes goods which are identical or similar to those evaluated;
- b) For the purposes of:
 - i. Clauses 6, are exported from any country;
 - ii. Clauses 7, are produced and exported from a country from which the goods under assessment is produced and exported;

"Identical goods" means imported goods which:

- a) Are the same in all aspects, including physical characteristics, quality and reputation to the goods subject to assessment, except for minor differences in appearance which do not affect the value of the goods;

b) Have been produced in the country where the evaluated goods have been produced;

c) Have been produced by or on behalf of the person who produced the goods subject to evaluation but do not include imported goods whose engineering, study, artistic, design, planning or sketching work carried out in Timor-Leste has been provided, directly or indirectly, by the purchaser of such imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of such imported goods.

"Price paid or payable" in respect of any goods means the aggregate of all amount paid or to be paid by the buyer to, or for the benefit of, the seller in respect of the goods.

"Producing" means cultivating, manufacturing, and extracting.

"Similar goods" means imported goods which:

a) Are very similar to the evaluated goods as regards the components of materials, parts and characteristics and are able to functionally and commercially replace the evaluated goods with regard to the quality and reputation of similar goods vis-à-vis the goods being evaluated;

b) Are produced in the country in which the goods under evaluation are produced;

c) Have been produced by or on behalf of the person who produced the goods subject to evaluation, but does not include imported goods whose engineering, study, artistic, design, planning or sketching work carried out in Timor-Leste has been provided, directly or indirectly by the purchaser of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of such imported goods.

"Sufficient information" as regards the determination of any amount, difference or adjustment means objective and quantifiable information which clearly establishes the accuracy of the amount, difference or adjustment.

"Transaction value" means the amount determined in accordance with clauses 2 and 3 of this

Table.

(2) For the purposes of this Table, persons are deemed to be related only when:

- (a) They are employees and business managers of each other;
- (b) They are legally recognized partners in a business;
- (c) They are an employer and employee;
- (d) He/she is a person who owns, controls or holds 5 per cent or more of the voting rights or
shares of both;
- (e) One of them directly or indirectly controls the other;
- (f) Both are directly or indirectly controlled by a third person;
- (g) Together they directly or indirectly control a third person;
- (h) They are members of the same family.

(3) For the purposes of this Table, persons are considered to be from the same family when:

- (a) They have kinship relationships up to the fourth degree;
- (b) They are married or maintain a civil union or *de facto* union with one another or if one
is married, maintains a civil union or *de facto* union with a person having a kinship
relationship up to the fourth degree with the other;
- (c) A person has been adopted as the child of another person or of a person with whom
that
the person maintains a relationship of kinship up to the third degree.

(4) For the purposes of this Table, when goods are not produced by or on behalf of the person who produced the goods under evaluation but there are identical or similar goods produced by or on behalf of a distinct person, those goods are deemed to be identical or

similar, as the case may be.

(5) For the purposes of this Table, interest on a financial agreement concluded by the buyer relating to the purchase of imported goods shall not be considered as part of the customs value in any case where:

(a) The interest rates are different from the price actually paid or payable for the goods;

(b) Such goods are actually sold at the price stated as the price actually paid or payable;

(c) The buyer, if required, can demonstrate that:

i. The financial agreement was concluded in writing;

ii. The declared interest rate does not exceed the value practised at that time for such transactions in the country where the financing was granted.

iii.

2. VALUE OF TRANSACTION AS A PRIMARY BASIS FOR THE EVALUATION

(1) The customs value of the imported goods shall be their transaction value, i.e. the price paid or payable for the goods when sold for export to Timor-Leste, adjusted in accordance with clause 3 of the Table, if:

(a) There are no restrictions on the disposition or use of the goods by the purchaser, in addition to the restrictions:

i. Imposed by law;

ii. (That limit the geographical area where the goods can be resold;

iii. (That do not substantially affect the value of the goods.

- (b) The sale of the goods or the price paid or payable for the goods shall not be subject to any condition or consideration in respect of which a value cannot be determined;
- (c) Any part of the proceeds of a subsequent sale, disposal or use of the goods by the purchaser shall be payable directly or indirectly to the seller, where the value of the price paid or payable for the goods includes the value of that part of the product or maybe adjusted according to clause 3 of this Table;
- (d) The buyer and seller of the goods are not related at the time the goods are sold for export
or, if the buyer and seller are related at that time:
 - i. Their relationship does not influence the price paid or payable for the goods;
 - ii. The importer shows that the value of the transaction of the goods complies with the requirements set forth in subclause 2 of this clause.

(2) In a sale between related persons, the importer must provide evidence that the transaction value of the goods subject to evaluation, taking into account any relevant factors including those factors and the differences that may be stipulated, significantly approximate the customs value of other goods exported at the same time, or in close proximity, to the value of the goods under evaluation, being:

- (a) The transaction value of the identical or similar goods with respect to the sale of such goods for export to Timor-Leste between a seller and a buyer which are not related at the time of sale;
- (b) The deductible value of the identical or similar goods determined according to clause 6 of this Table;

(c) The calculated value of identical or similar goods determined in accordance with clause 7 of this Table.

(3) In any case, where Customs is of the opinion that the relationship between buyer and seller of any goods influences the price paid or payable for the goods, Customs shall inform the importer in writing if so requested, of the reasons that made Customs form such an opinion, giving the importer a reasonable chance to convince Customs that the relationship did not influence the price.

(4) When subclause 2 of this clause applies, the importer shall, without limiting the generic statement of subclause 2, provide the following information:

(a) The nature of the goods evaluated;

(b) The nature of the industry producing the goods subject to evaluation;

(c) The season of the year in which the evaluated goods are imported;

(d) Whether a difference between values is commercially significant;

(e) The levels of trade in which sales took place;

(f) The levels of the quantity of sales;

(g) Any of the amounts referred to in clause 3 of this Table;

(h) Costs, fees or expenses incurred by the seller when the seller sells to a buyer with whom he/she is not related, which are not incurred when the seller sells to a buyer with whom he/she is related.

(5) When:

- (a) In Customs' opinion, the customs value cannot be determined under this clause;
 - (b) Customs has reason to doubt the truth or accuracy of the declared customs value and, after having attempted to obtain a further explanation or evidence that the declared customs value represents the total amount paid or payable for the imported goods, Customs are not yet convinced that the customs value can be determined under this clause;
 - (c) Customs may determine the customs value of the goods through the sequential use of clauses 4 to 8 of this Table, up to the first clause which, in its opinion, is able to determine the customs value.
- (6) Notwithstanding subclause 5 of this clause, at the written request of the importer, addressed to Customs, the order of consideration of the evaluation basis provided for in clauses 6 and 7 may be reversed.

3. ADJUSTMENT OF PRICE PAID OR PAYABLE

- (1) In determining the value of the transaction of the goods according to clause 2 of this Table, the price paid or payable for the goods must be adjusted:
- (a) When adding the amounts, in so far as they are no longer included in the price paid or payable and are determined on the basis of sufficient information, equivalent to:
 - i. Commissions and agency in respect of goods, incurred by the buyer, in addition to purchase commissions;
 - ii. (Costs and packaging fees incurred by the buyer in respect of goods, including the cost of packaging, boxes and other containers and covers which are treated for customs purposes as part of the imported goods and all packaging expenses incurred in the delivery of goods in the condition in which they were dispatched to Timor-Leste;

iii. Value of any of the following services and goods:

(A) Materials, components and other goods incorporated in the imported goods;

(B) Tools, matrices, moulds and other goods used in the production of imported goods;

(C) Materials consumed in the production of imported goods;

(D) Engineering, development, artistic, design, planning or outline work carried out outside Timor-Leste and required for the production of imported goods, - determined in accordance with subclause 2, which has been supplied, directly

or

indirectly, by the buyer of such goods imported free of charge or at a reduced cost for use in connection with the production and sale for export of such imported goods, broken down by the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;

iv. Royalties and licensing fees, including payments for patents, trademarks and copyrights with respect to imported goods that the buyer has to pay, directly or indirectly, as a condition of the sale of goods for export to Timor-Leste, excluding

the

inherent charges to the right of reproduction of goods imported into Timor-Leste or payments made by the buyer for the right to distribute or resell the imported goods,

if

such payments are not a condition of the sale for export;

v. Value of any part of the proceeds of a subsequent sale, disposal or use of the goods

by

the buyer that directly or indirectly bears on the seller;

vi. Value of any materials, components and other goods incorporated in the imported goods for the purpose of repairing or remodelling those goods prior to their export

to

Timor-Leste, and the price paid for the repair or refurbishment service, as the case maybe;

- vii. Transport and insurance costs, and boarding, landing and handling fees, as well as other fees and expenses associated with the carriage of imported goods until such goods have left the exporting country, if such costs, fees and expenses are paid or payable by the purchaser, directly or indirectly, to or for the benefit of the seller as
- a
- condition of the transaction.

(b) In deducting the amounts, to the extent that they are already included in the price paid or payable for the goods, equivalent to:

- i. Transport and insurance costs, and boarding, landing and handling fees, as well as other fees and expenses associated with the carriage of goods imported from the time the goods left the exporting country, in addition to any cost, charge or expense referred
- to in (ii) (B) of this clause;

ii. Any of the following costs, fees and expenses:

- (A) Any reasonable costs, fees and expenses incurred in constructing, building, assembling and maintaining, including the provision of technical assistance, of goods after importation;
- (B) Any costs, fees and expenses incurred in transporting and insuring the goods in Timor-Leste, including costs, fees and reasonable associated expenses;
- (C) Any customs duties and other taxes payable in Timor-Leste due to the importation
- or sale of the goods, if the cost, rate or expense is separately identified from the balance of the price paid or payable for the goods.

(c) In respect of computer media with data or instructions, by deducting the value of the data

or instructions from the price paid or payable for the goods if:

i. The value of the data or information is distinguishable from the cost or value of the computer medium;

ii. The data or instructions are not incorporated in the data processing equipment.

(2) The value of the goods and services described in subclause (a) (iii) of this clause is determined by:

(a) In the case of materials, components, parts and other goods incorporated in goods subject to evaluation or any material consumed in production and goods which are evaluated:

i. Through verification:

(A) Of their cost of acquisition when they were purchased by the buyer from a person

who was not related to the buyer at the time of purchase;

(B) Of their cost of acquisition by the person related to the buyer when the goods were purchased by the buyer from a person related to the buyer at the time of purchase but who did not produce the goods;

(C) Of their cost of production when they were produced by the buyer or person related to the buyer at the time of production.

ii. And adding:

(A) The cost of their transport to the place of production of the goods subject to

evaluation;

(B) The value added due to any repairs or modifications made after its acquisition or production.

(b) In the case of tools, matrices, moulds and other goods used in the production of goods

subject to evaluation:

i. Through verification:

(A) Of their cost of acquisition when they were purchased by the buyer from a person who was not related to the buyer at the time of purchase;

(B) Of their cost of acquisition incurred by the person related to the buyer when the goods were purchased by the buyer from a person related to the buyer at the time of purchase but who did not produce the goods;

(C) Of their cost of production when they were produced by the buyer or person related to the buyer at the time of production.

iii. And adding:

(A) The cost of their transport to the place of production of the goods subject to evaluation;

(B) The value added due to any repairs or modifications made after its acquisition or production.

iv. And deducting an amount to take into account any prior use of the goods after the goods have been acquired or produced.

(c) In the case of engineering, study, artistic, design, planning or sketching work carried out outside Timor-Leste and required for the production of goods subject to evaluation by verification:

- i. Of their cost of acquisition or rental when they have been acquired or leased by the buyer to a person who is not related to the buyer at the time of purchase or rental and is generally not available to the public;
- ii. Of their cost of purchase or lease incurred by the person related to the buyer when they have been acquired or leased by the buyer to a person related to the buyer at the time of purchase or lease but who did not produce them and are not generally available to the public;
- iii. Of the cost for purchase by the public when they are generally available to the public;
- iv. Of their cost of production when they are produced by the buyer or by the person related to the buyer at the time of production.

(3) For the purposes of subparagraph (c) of subclause (1) of this clause, the term "computer support" does not include integrated circuits, semiconductors or similar devices, or articles incorporated therein; and the expression data or instructions does not include sound recording, video or camera operators.

(4) When any adjustments under the preceding subclause are to be made, in Customs' opinion, for lack of sufficient information, the value of the transaction of the goods subject to evaluation cannot be determined according to clause 2 of this Table.

(5) Nothing shall be added to the actual price paid or payable in determining the customs value, except as provided in this clause.

4. TRANSACTION VALUE OF IDENTICAL GOODS AS CUSTOMS VALUE

(1) In accordance with subclauses 2 to 4 of this clause, when the customs value of the imported goods cannot, in Customs' opinion, be determined according to clause 2 of this Table, the customs value of the goods shall be the transaction value of identical goods on a sale of such goods for export to Timor-Leste if such a transaction value equals the customs value of identical goods and identical goods are exported at the same time or at substantially the same time as the goods subject to evaluation and sold under the following conditions:

(a) To a buyer at the same commercial level or equivalent, as the buyer of the goods under evaluation;

(b) In the same or substantially the same quantities as the goods under evaluation.

(1) When the customs value of the imported goods is not determinable under subclause 1 of this clause because the identical goods are not sold under the conditions described in subclause (1) (a) and (b) of this clause, they shall be then replaced by identical goods sold under any of the following conditions:

(a) To a buyer of the same commercial level, or equivalent, of the buyer of the goods subject to evaluation but in quantities different from the quantities in which those goods were sold;

(b) To a buyer at a commercial level other than the buyer of the goods subject to evaluation but in equal or significantly approximate quantities to the goods subject to evaluation;

(c) To a buyer at a commercial level other than the buyer of the goods subject to evaluation and in quantities different from those in which the goods were sold.

(2) For the purposes of determining the customs value of goods imported under subclause (1) of this clause, the value of the transaction of identical goods shall be adjusted by adding or subtracting, as appropriate, the amounts they represent:

- (a) Significant trade differences between the costs, charges and expenses referred to in clause 3 (1) (a) (vii) of this Table vis-à-vis identical goods and such costs, charges and expenses for goods subject to evaluation due to differences in distances and modes of transport;
- (b) When the value of the transaction relates to identical goods sold under the conditions described in subclause (a) to (c) of subclause (2) of this clause, the difference in commercial levels between buyers of identical goods and goods under evaluation or of the quantities in which the identical goods and the goods subject to evaluation have been sold or both, as appropriate, - if each amount may, in Customs' opinion, be determined on the basis of sufficient information. When such amount cannot be determined, the customs value of the goods subject to assessment cannot be determined on the basis of the transaction value of the identical goods under this clause.

(3) When, for imported goods subject to evaluation, there are 2 or more transaction values of identical goods which meet the requirements set out in subclauses (1) to (3) of this clause or when, although there is no such transaction value, there are 2 or more transaction values of identical goods sold under the conditions described in paragraph (a) to (c) of subclause (2) of this clause that meets the requirements set forth in this clause and applicable by virtue of subclause 2 of this clause, the customs value of goods subject to evaluation shall be determined on the basis of the lowest transaction value.

5. TRANSACTION VALUE OF SIMILAR GOODS AS CUSTOMS VALUE

(1) In accordance with subclause (2) of this clause and subclauses (2) to (4) of clause 4 of this Table, when the customs value of the imported goods cannot, in Customs' opinion, be determined according to clause 4 of this Table, the customs value of goods shall be the transaction value of similar goods in a sale of such goods for export to Timor-Leste if such transaction value equals the customs value of similar goods, similar goods are exported at the same time or in close proximity of goods subject to evaluation and are sold under the following conditions:

- (a) To a buyer of the same commercial level or the equivalent of the buyer of the goods

under

evaluation;

(b) In the same or substantially the same quantities as the goods under evaluation.

(2) Subclauses (2) to (4) of clause 4 of this Table should apply to this clause on similar goods as if each reference in those subclauses to identical goods was a reference to similar goods.

6. DEDUCTIVE VALUE AS CUSTOMS VALUE

(1) Subject to subclauses (5) and (6) of clause 2 of this Table, when the customs value, in Customs' opinion, cannot be determined according to clause 5 of this Table, the customs value of the goods shall be the deductible value relating to the goods.

(2) When goods subject to evaluation or identical or similar goods are sold in Timor-Leste at the same time, or as close to that, of importation of the goods under evaluation, the deductible value of these goods shall be the unit price for the sales described in subclause (5) of this clause, determined in accordance with this subclause and adjusted in accordance with subclause 6 of this clause, according to the largest number of units of goods under evaluation or identical or similar goods being sold.

(3) When goods subject to evaluation or identical or similar goods are sold under the condition that they have been imported within 90 days of the importation of the goods under evaluation but are not sold at the same time or as close to importation, the deductible value of the goods subject to evaluation shall be the unit price for the sales described in subclause (5) of this clause, determined in accordance with this subclause and adjusted in accordance with subclause 6 of this clause, according to the largest number of units of goods under evaluation or identical or similar goods sold as soon as possible after importation of the goods subject to evaluation.

(4) When goods subject to evaluation or identical or similar goods are not sold in Timor-Leste in the circumstances described in subclause (2) or subclause (3) of this clause, but goods under evaluation after subsequent assembly, packaging or processing in Timor-Leste are sold in Timor-Leste within ninety (90) days from importation and the importer of the goods subject to evaluation request the application of this subclause for the determination of the customs value of these goods, the deductible value of the goods subject to evaluation shall be the unit price for the sales described in the subclause of this clause, determined in

accordance with that subclause and adjusted in accordance with subclause 6 of this clause, according to the largest number of units of goods under evaluation sold.

(5) For the purposes of subclauses (2) to (4) of this clause, the unit price for any goods subject to evaluation, identical or similar goods, shall be determined by checking the unit price for sales of goods in the first level of trade, after importation by persons who:

- (a) Are not related to the persons to whom they purchased the goods at the time the goods were sold;
- (b) Have not provided, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any goods or services mentioned in clause 3 (1) (a) (iii) of this Table, - according to the sale of the largest number of units of goods when, in the Customs' opinion, a sufficient number of such sales have been made to enable the determination of the unit price of the goods.

(6) For the purposes of subclauses (2) to (4) of this clause, the unit price for any goods subject to evaluation, identical or similar goods, shall be adjusted by deducting the amount equivalent to the sum:

- (a) Of the amount determined in accordance with subclause 7 of this clause, equal:
 - i. To the amount of the commission generally raised per unit;
 - ii. To the amount of profits and general expenses, including the marketing costs of the goods, taken as a whole, which are generally translated by unit - relating to sales in Timor-Leste of goods of the same class or type.
- (b) Of the reasonable costs, charges and expenses incurred in connection with the transportation and insurance of goods in Timor-Leste and associated costs, charges and expenses, insofar as the amounts of such costs, charges and expenses are not deducted in respect of general expenses pursuant to paragraph (a) of this clause.

(c) Of the costs, charges and expenses mentioned in clause 3 (i) (b) (i) of this Table incurred in respect of the goods, to the extent that the amounts of such costs, charges and expenses are not deducted therefrom of general expenses as per paragraph (a) of this clause.

(d) Of any customs duties or taxes payable in Timor-Leste on importation or sale of goods,

insofar as the amounts of such customs duties or taxes are not deducted in respect of expenses under paragraph (a) of this clause, the amount of value added to the goods that is attributable to the subsequent assembly, packaging or processing in Timor-Leste

of the goods, when such amount is determined, in Customs' opinion, on the basis of sufficient information.

(7) The amount considered equivalent to the amount of the commission or profit and general expenses mentioned in subclause (6) (a) shall be calculated on a percentage basis and determined on the basis of the information prepared in a manner consistent with generally accepted accounting principles, which is provided:

(a) By or on behalf of the importer of the goods subject to evaluation;

(b) When the information provided by or on behalf of the importer of the goods subject to

evaluation is not sufficient information but a verification of the sales in Timor-Leste of

the more specific group or a variety of goods of the same class or type of goods subject

to evaluation, allow sufficient information to be obtained, in Customs' opinion.

(8) When an amount referred to in subclause (6) (e) of this clause, relating to any goods subject to evaluation cannot, in Customs' opinion, be determined on the basis of sufficient information, the customs value of the goods cannot be determined based on the deductible value under subclause (6) (e) of this clause.

7. VALUE CALCULATED AS CUSTOMS VALUE

(1) Subject to subclauses (3) and (5) of clause 2 of this Table, when the customs value of the imported goods cannot, according to Customs' opinion, be determined according to clause 6 of this Table, the customs value of the goods is the calculated value concerning these goods.

(2) The calculated value of the goods subject to evaluation shall be the sum of the amounts equivalent to:

(a) The costs, charges and expenses incurred, or the value of:

i. Materials used in the production of the goods subject to evaluation;

ii. Production or other processing of goods under evaluation, - determined on the basis of:

(A) Commercial accounts of the producer of the goods subject to evaluation;

(B) Any other sufficient information relating to the production of goods subject to evaluation - provided by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods subject to evaluation, including, without prejudice to the general nature of the foregoing.

iii. Costs, charges and expenses mentioned in clause 3 (1) (a) (ii) of this Table;

iv. Value of any goods and services mentioned in clauses 3 (1) (a) (iii) and (vi) of this Table, determined and allocated to the goods under evaluation as mentioned in that the clause, regardless of whether or not such goods and services have been provided/supplied free of charge or at a reduced cost;

v. Costs, charges and expenses incurred by the producer in connection with engineering, study, artistic, design, planning or sketching work carried out in Timor-Leste and that were supplied, directly or indirectly, by the purchaser of the goods subject to evaluation for use with respect to the production and sale for export of such goods to the extent that such elements are imputed to the producer of the goods, allocated to goods subject to evaluation as mentioned in clause 3 (1) (a) (iii) of this Table.

(b) The amount, determined in accordance with subclause (4) of this clause, for-profit and general expenses, taken as a whole, generally reflected in the sales for export to Timor-Leste of goods of the same class or type of goods under evaluation, made by the producers of the goods to the buyers in Timor-Leste who are not related to the producers to whom they buy the goods from at the time they are sold.

(3) For the purposes of this clause, the term general expenses mean the direct and indirect costs, charges and expenses of production and sale of the goods for export, in addition to the costs, charges and expenses mentioned in subclause (2) (a) of this clause.

(4) The amount of profit and general expenses referred to in subclause (2) (b) of this clause shall be calculated on a percentage basis and determined on the basis of the information prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods subject to evaluation, which is provided:

- (a) By or on behalf of the importer of the goods subject to assessment;
- (b) When the information provided by or on behalf of the importer of the goods subject to evaluation is not sufficient information but a verification of the sales for export to Timor-Leste of the more specific group or a variety of goods of the same class or type of goods subject to evaluation, allow sufficient information to be obtained, in Customs' opinion.

8. RESIDUAL RESEARCH BASIS

(1) When, in Customs' opinion, the customs value of the imported goods cannot be determined under clause 7 of this Table, it shall be determined by the information available in Timor-Leste based on the value derived from the evaluation methods established in clauses 2 to 7 of this Table, interpreted flexibly and reasonably adjusted in order to determine a customs value of the goods.

(2) A customs value should not be determined on the basis of:

- (a) The selling price in Timor-Leste of goods produced in Timor-Leste;
- (b) A method that establishes the acceptance of the highest value among 2 alternatives;
- (c) The price of the goods on the domestic market of the exporting country;
- (d) The cost of production, in addition to the calculated values that have been determined for identical or similar goods according to clause 7 of this Table;
- (e) The price of goods for export to a country other than Timor-Leste, unless the goods have been imported into Timor-Leste;
- (f) Minimum customs values;
- (g) Arbitrary or fictitious values.