

Timor-Leste Customs Procedures Code

Proposed Revisions

January 25, 2016

PROPOSED CUSTOMS PROCEDURES CODE

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

DECREE-LAW NO. xx xxx OF 20xx

CUSTOMS PROCEDURES CODE

1. [Explanation/summary to be provided].
- 2.
- 3.
4. Pursuant to sub-paragraph (c), item 1, of Article 97, and pursuant to sub-paragraph (e), item 1, of Article 115 and sub-paragraph (d), Article 116 of the Constitution, the Government decrees the following to have the force of law:

Article 1

(Approval)

The Customs Procedures Code, published in an annex to the present decree-law, is hereby approved and has effect as law.

Article 2

(Repeal of prior and conflicting legislation)

The following Decree Laws are hereby repealed, together with any provision in any other law which is contrary to this present Decree Law:

1. 9/2003 (Duties and Competencies of the Customs Service of Timor-Leste);
2. 10/2004 (Customs Tax Offences);
3. 11/2004 (Customs Code of Timor-Leste);
4. 15/2005 (The Statute of Official Customs Brokers);
5. 5/2007 (Customs and Customs Fund Emoluments); and,
6. 9/2004 (General Rules on the Import, Storage and Movement of Goods Subject to Selective Excise Tax).

Article 3

(Entry into Force)

The present decree-law shall enter into force 180 days after its publication.

Approved by the Council of Ministers on xxxxxx.

The Prime Minister

[Signed]

(Dr. Rui Maria de Araújo)

The Minister of Finance

[Signed]

(Santina Cardoso)

Promulgated on xx xxx .

To be published.

[Signed]

The President of the Republic

Taur Matan Ruak

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ANNEX

CUSTOMS PROCEDURES CODE

TITLE I GENERAL PROVISIONS

Article 1 (Scope)

1. This Code establishes the general rules and procedures for the importation and exportation of goods, under item of Article 3 of this Code the movement and use in the customs territory the control of passengers, and the administrative and enforcement authority of Customs related to the same.
2. This Code shall apply uniformly:
 - (a) throughout the customs territory of Timor-Leste, and
 - (b) to trade between Timor-Leste and other countries except as may otherwise be provided under international agreements to which Timor-Leste is a party.
3. Any act or omission that constitutes a crime under the provisions of the Penal Code (Decree Law No. 19/2009) remains subject to the measures provided by that 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 surface, the maritime zone and the air space limited by the national boundaries of Timor-Leste pursuant to the Constitution of the Republic and the applicable law in force and international law, including the enclave of Oecussi Ambeno, the island of Atauro, the islet of Jaco, and the other islands and natural or artificial formations and platforms of prospection and exploration of resources.

Article 3 (Basic Definitions)

For the purposes of this Code, where the context requires, words describing the singular shall include the plural, and vice versa, the use of the masculine pronoun shall include the feminine, and the following definitions shall apply:

- (a).
 - a) **Customs or customs authority** means the government authority responsible for administration and enforcement of the customs laws and a duly authorized officer;

- b) **Customs Control or competent:** the customs service with jurisdiction over the customs warehouse;
- c) **Inward processing:** the customs procedure for receiving in the customs territory, with suspension of duties and other charges, certain goods intended to undergo a transformation, processing or repair and to be subsequently exported;
- d) **Presentation of goods and or of conveyances to Customs:** communication to the customs authority of the arrival of goods and conveyance to the customs port or other place designated or approved by the competent authority, in accordance with the procedures provided in this Code;
- e) **Electronic signature:** personal data in electronic form in, affixed to or associated with a record that can be used to identify the signatory in relation to the record and to indicate the intention of that signatory with respect to information contained in the record;
- f) **Digital signature:** specific to a user or process that is used to sign messages over a communication link;
- g) **Clearance for the departure of goods:** the act by which Customs make available the goods for the purposes established in the customs procedure to which they are subject;
- h) **Customs control:** means the measures and acts applied by Customs to ensure compliance with the customs laws and other legislation of Timor-Leste governing the import, export, transit, transshipment, and storage of goods moved between Timor-Leste and other countries or territories, and the presence and movement of foreign goods within Timor-Leste;
- i) **Bill of lading:** commercial document required for the movement of all goods in the customs frontier that serves as evidence of the terms and conditions of carriage agreed between the two parties (importer and supplier). Each document has a unique number;
- j) **Countermark:** sequential number that is assigned to each mode of transport corresponding to its entry at the customs port of clearance, with or without commercial purposes;
- k) **Date/ time of receipt:** The date/time officially entered in the customs declaration of acceptance;

- l) **Declarant:** means a natural or legal person authorized by Customs, to comply with tax obligations relating to the declared customs procedures;
- m) **Customs declaration:** the act by which the declarant shows willingness to subject certain goods and or conveyances to a particular customs procedure and indicates the elements whose mention is legally required for the application of that procedure, using for this purpose the format and mode provided in this Code and other customs legislation;
- n) **Decision:** means any official act by customs based on customs legislation, giving a ruling on a given case, such act having legal effects on one or more specific or identifiable persons;
- o) **Prior decision:** a written decision issued by the Customs against an applicant prior to the importation of covered goods that determines the treatment that Customs will give to the goods at the time of importation;
- p) **Depositor:** the declarant who places the goods under the customs warehousing procedure or the person to whom the rights or obligations of the procedure were transferred, in accordance with Article 200;
- q) **Authorized depositary:** a person authorized under Article 22 of this Code to operate the customs warehouse;
- r) **Customs clearance:** the compliance of customs formalities necessary to allow the import and export of goods, or their placing under other customs procedures;
- s) **Customs duties:** the rights enshrined in the customs tariff applicable to goods entering or leaving the customs territory;
- t) **Customs duties on imports and taxes:** any customs duties or taxes prescribed by law, or in respect of goods imported into Timor-Leste;
- u) **Customs duties on exports and taxes:** any customs duties or taxes prescribed by law, or in respect of goods exported from Timor-Leste;
- v) **Duties and other charges:** customs duties, taxes and other charges levied on the value of goods imported or exported for which Customs is responsible for the collection;
- w) **Director General:** a person appointed or designated by law as responsible for the management of Customs;

- x) **Customs debt:** the obligation on a person to pay the amount of duties and taxes which applies to specific goods under the customs laws.
- y) **Customs clearance:** the fulfilment of the necessary customs formalities to enter goods consumption, for export or subject to another customs procedure;
- z) **Customs destination approved by Customs:**
 - i. The placing of the goods under a customs procedure;
 - ii. Their destruction;
 - iii. Their abandonment to the State.
- aa) **Document:** a description, a report, a statement, an application, a notification, a receipt or other written document;
- bb) **Electronic document:** is a document whose material support is some kind of electronic device which contains and is digitally encoded and can be read and played through its own features;
- cc) **Customs warehouse:** is a customs area under customs control authorized under Article 22;
- dd) **Customs port:** a seaport, airport, land border crossing, internal storage container port or any other place designated pursuant to Article 13 on which to comply with all or some of the formalities laid down by customs legislation;
- ee) **Customs status:** the status of goods as national goods or foreign goods;
- ff) **Lighterman:** a person who transports goods on a barge, scow, or other vessel to or from a vessel within a port, or from place to place within a port;
- gg) **Exporter:** the person by or for whom goods are exported and includes a person who is or becomes the owner of, or entitled to the possession of, or is beneficially interested in, such goods on or at any time after declaration for export and before they are exported;
- hh) **Customs control:** any activity performed by Customs to ensure the compliance of customs formalities;
- ii) **Customs formalities:** the set of operations that, to comply with customs law, must be undertaken by the persons concerned and by Customs regarding the presentation and clearance of goods and conveyances;

- jj) **Warranty:** ensures to the satisfaction of Customs, the execution of an obligation to them; Warranty is deemed “global” when ensuring the execution of obligations arising from several operations;
- kk) **Temporary importation:** the customs procedure for receiving, in a customs territory, in full or partial suspension of duties and other import levies, certain goods imported with a defined purpose and intended for re-exported within a given period, without undergoing change, except depreciation normal due to their use;
- ll) **Importer:** a person by or for whom the goods are imported and includes the consignee of goods or a person who is or becomes the owner of, or entitled to the possession of, or beneficially interested in such goods at and from the time of importation thereof until completion of customs formalities.
- mm) **Customs offence:** any of the offences or attempted violations of customs law defined in Title XIX.
- nn) **Payment of duties and other charges:** the assessment of the amount of duties and taxes to be levied;
- oo) **Customs law:**
- i. This Code and respective enactment measures;
 - ii. The laws of Timor-Leste containing provisions imposing customs duties and other charges on the import or export of goods; and
 - iii. International agreements containing customs provisions to which Timor-Leste is a party.
- pp) **Commercial policy measures:** means non-tariff measures contained in legal provisions, including dumping, safeguard charges or countervailing 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 conveyances, animals, documents, currency, baggage, electricity, any commodity capable of being pumped through pipelines, and goods whose importation or exportation is prohibited by law.
- rr) **Foreign goods:** means goods other than those referred to in item tt);
- ss) **Equivalent goods:** domestic goods used in processing operations instead of foreign goods placed under a processing procedure;

tt) **National goods:**

- i. Goods wholly obtained or produced in the customs territory, or
- ii. Foreign goods that have been released for free circulation, or
- iii. Goods that are manufactured or produced in the customs territory exclusively from goods described in items ii) e/or (iii).

uu) **Goods subject to excise tax:** goods liable to be taxed in respect of excise tax under the legislation in force;

vv) **Minister:** the person designated by law as responsible for the superintendence of Customs.

ww) **Processing operations** mean:

- i. The processing of goods;
- ii. Installation, assembly and adaptation of goods into other goods;
- iii. The manufacture of goods;
- iv. The repair of goods, including their restoration and rehabilitation.

xx) **Authorized Operator:** legal entity who, during their professional activity and after evaluation of compliance with the criteria established by the customs administration, is considered a reliable and trustworthy operator. When in the course of their activity as an importer and/or exporter benefits from additional advantages in the customs clearance process, they are designated authorized economic operator;

yy) **Customs Tariff:** the legal document consisting of tables or charts in which the various goods are designated, systematically distributed and coded by headings, sub-headings and tariff items, and in which are contained the rates at which the goods are liable when entering or departing a customs jurisdiction;

zz) **Person** means:

- i. A natural person;
- ii. A legal person;
- iii. An association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person.

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

- i. In the case of a natural person, any person who is normally resident in Timor-Leste;
- ii. In the case of a legal person or an association of persons, any person that has in Timor-Leste its registered office, central headquarters, or a permanent business establishment.

bbb) **Processing procedure** mean:

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

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

ddd) **Stores:** goods for use in or on a conveyance and includes fuel and spare parts and other articles of equipment, whether or not for immediate use, provisions for consumption by the crew and goods carried in the conveyance for retail sale to passengers on board;

eee) **Appeal:** the act by which a directly interested person who considers himself aggrieved by a decision or omission of the Customs appeals to a competent authority;

fff) **Customs Aids:** means any device or equipment used by Customs in the examination of goods or persons and may include, but is not limited to, x-ray equipment, including x-ray equipment container; dogs trained to detect contraband; chemical detection devices; radiation detectors; and cameras.

ggg) **Customs procedure:** a set of specific customs procedures applicable to goods, conveyances and other commodities by the customs authority and the placement of goods under one of the following procedures:

- i. Release for free circulation;
- ii. Temporary importation;
- iii. Customs warehousing;

- iv. Transit;
- v. Outright exportation;
- vi. Temporary exportation
- vii. Drawback
- viii. Inward processing;
- ix. Outward processing;
- x. Free zone or free warehouse;
- xi. Transshipment;
- xii. Stores;
- xiii. Re-exportation.

hhh) **Entry:** the information entered in a tangible medium or that is stored in an electronic medium, or other and retrievable in perceivable form;

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

jjj) **Refund:** the reimbursement, in total or in part, of duties and taxes paid in excess of the due amount on the goods declared for a customs procedure;

kkk) **Administrative penalty:** a pecuniary administrative penalty established based on Title XIX, the purpose of a customs offence;

III) **Harmonized System:** the Harmonized System of Classification and Coding of Merchandise, appended to the International Convention on the Harmonized System of Classification and Coding of Merchandise, signed in Brussels on June 14, 1983, and respective Amendments and 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) **Rate of yield:** the quantity or percentage of compensating products obtained from the processing operations to which a given quantity of goods was subjected;

ooo) **Conveyance:** any means of transport used to carry goods or passengers such

as a vessel, aircraft, vehicle or animal.

ppp) **Customs value:** The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export into the Country;

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

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

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

Customs visit: inspection that is carried to a place or conveyance for the verification of compliance with customs procedures and other legal formalities.

Article 4 (Delegation of Authority)

1. The Director General may delegate in whole or in part any function or action he is authorized to perform under this Code to any subordinate officer or employee of Customs.
2. A delegation under this Article shall be in writing and shall be included in the written document stating its scope and duration under the law.

Article 387 (Implementing Measures)

- 1.
2. The Director General may establish such additional and supplementary rules or directives of general applicability not inconsistent with regulations of the Minister as he deems necessary for the proper implementation of the provisions of this Code.

Article 7 (Extension of Time Limits)

Where the customs law fixes a period, a date or a term for its enforcement, the period may be extended and the date changed or have the terms differed only to the extent expressly provided by law or regulations.

Article 6 (Duty to Cooperate)

Any person directly or indirectly involved in the accomplishment of customs formalities or in

customs controls shall provide Customs with all the requisite documents and information and all the requested assistance when so requested by Customs and within the time prescribed.

2. All private and public entities shall cooperate, to the extent of their competencies, with Customs whenever requested.

3. As regards the Government Administration, state owned institutes and companies must cooperate with Customs by supplying all information and explanation necessary to the complete performance of the Customs functions.

Article 13 (Customs Ports)

1.

2, The Customs Ports where the custom activities are performed are designated as such by Minister in a notification in the Journal of the Republic.

2. Exceptionally, the Minister may, by means of a notification in the Journal of the Republic, designed in a temporary manner other customs ports where customs activities may be performed.

4. The notification referred to in the preceding item must include the name, location, time limit and geographical boundaries as well as the established restrictions and conditions.

5The Minister may, by notification in the Journal of the Republic, vary or revoke a designation of a customs port made under this Article or vary or revoke the conditions or restrictions to which it was subject or revoke those conditions or restrictions and impose new conditions or restrictions.

6In consultation with stakeholders and coordination with the border authorities, the Director General shall designate the hours of business of customs ports.

4. On request, and subject to payment of such fees as the Minister may prescribe, Customs may provide services outside the designated hours of business.

Article 5 (Rights of Representation)

1. Without prejudice to provisions of this Code concerning the licensing of customs brokers, any person may appoint a representative in his dealings with Customs to perform the acts and formalities required by the customs laws.

2. A representative must state that he is acting on behalf of the person represented

with the necessary representation powers.

3. A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.
4. Customs may require any person stating that he is acting in the name of, or on behalf of, another person to produce evidence of his powers to act as a representative.

Article 10 (Customs Supervision and Control)

1. Goods brought into the customs territory are under customs supervision and may be submitted to customs control at any time and place.
2. Goods referred to in the preceding item remaining under customs supervision for the period required to determine their customs status.
3. National goods returned to the customs territory shall not be subject to customs supervision once Customs has determined their status as such.
4. Foreign goods remain under customs supervision until they are released for free circulation or they are placed in a free zone or a free warehouse, re-exported, destroyed or abandoned to the State.
5. National goods declared for export shall be subject to customs supervision, and may be subject to customs control, from the time of acceptance of the declaration placing them under such procedure until their actual exit or until they are abandoned or destroyed or the customs declaration is invalidated.

Article 11 (Fees for Customs Services)

1. Fees are charged by the Minister for services provided by Customs for the benefit of a particular person in relation to the following acts:
 - (a) the loading or unloading of goods at places other than those designated for to this effect or outside designated hours of business, where permitted under the customs laws;
 - (b) the declaration, verification, or release of goods, on request, outside designated hours of business or at places other than designated Customs ports, where permitted under the customs laws;

- (c) access to, or handling or sampling of goods in, a customs warehouse or temporary storage area by the owner or importer, where the presence of Customs is necessary;
- (d) authorization, issuance or renewal of a license under this Code;
- (e) provision of copies of forms or documents on request of a person;
- (f) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using officers of Customs are involved;
- (g). storage of goods in public customs warehouses under Customs management; or
- (h). use of a Customs information system within the meaning of Article 51;

provided that the amount of any such fee imposed shall not exceed the approximate amount of administrative expenses and cost of the service rendered.

3. The provisions of Article 63 of this Code shall apply, *mutatis mutandis*, to the imposition of any new fee or a change to an existing fee and to the information set forth in the preceding item

4. As regards the updating of the amounts in Articles 377 to 381, they will be updated by the Minister.

Title II Customs Authorized Areas and Activities

Chapter I (General)

Article 29 (Cancellation of Authorization)

1. An authorization or license issued under this Title shall be revoked, and the presentation of such authorization or license shall be denied if it is determined that the authorized person, licensee or applicant, as the case may be, or a person who controls or manages the activities of such authorized person, licensee or applicant-

- (a). has been convicted of a crime under the Penal Code of Timor-Leste which involved the importation or exportation of goods, a breach of secrecy, coercion or obstruction of government or judicial authorities, larceny or other unlawful appropriation of property, fraud, perjury, bribery or other corruption of a public official, embezzlement, forgery, counterfeiting, tax fraud or avoidance of customs duties;

(b).

- (i). has committed a customs offense under Article 190 or counselled, commanded,

induced, procured, or knowingly aided or abetted the commission of such a customs offense by any other person, including an officer of Customs; or

(ii). has committed repeated customs offenses of any kind.

2. An authorization or license issued under this Title may be suspended or revoked by Customs if it is determined that the authorized person or licensee, as the case may be, has failed to comply with the conditions set forth in such authorization or license.

3. The provisions of this Article are without prejudice to the grounds for denial of suspension or revocation requests of authorizations or licenses elsewhere specified in this Title.

Chapter II (Area under customs controls)

Article 20 (Authorization Required)

Unless authorized area under customs control by the Director General as a place of customs control, no place shall be used –

- (a). for control of any vessel or aircraft arriving in or departing from Timor-Leste or for the loading or unloading of goods transported by them;
- (b). for the transshipment of goods;
- (c). to hold or store imported goods pending their release by Customs or in temporary storage;
- (d). for the embarkation, disembarkation or control of persons arriving in or departing from Timor-Leste;
- (e). as a customs warehouse for storage of imported goods; or
- (f). as a tax warehouse where, under legislation in force, excisable goods may be produced, processed or held without payment of excise tax.

Article 21 (Application for Authorization)

1. The authorization request to operate an authorized area under area under customs control may be made only by a person established in Timor-Leste who owns, occupies or operates the area.

2. As set forth herein, the application shall be made in such form and manner with the information and submitted with the required documented.

Article 22 (Authorization)

1. The grant of an authorization to operate a customs under customs control is a subject to a determination by the Director General of economic need and to such terms, conditions, or restrictions as the Director General may determine as necessary to ensure the proper conduct of operations.
2. The authorization shall specify—
 - (a). the area in respect of which the authorization is granted;
 - (b). the applicant as the authorized person;
 - (c). the purpose or purposes described in subsections (a) to (f) of Article 13 for which the area is authorized; and
 - (d). any terms, conditions or restrictions.

Article 23 (Provision of Guarantee)

Considering the exceptions as the Minister may prescribe and the provisions of this Code concerning the customs warehousing system, the person authorized to operate in an area under customs control in an area under customs control must provide a guarantee to hold harmless the State against any loss or expense connected with or arising from the deposit, storage, or manipulation of goods in area under customs control.

Article 24 (Records)

The authorized person shall maintain registers of all activities as specified. The data included in the register shall enable the supervision of areas under customs control area under customs control in particular with regard to the identification of goods placed therein, their customs status, and their movements into, out of, and within the area under customs control.

Article 25 (Customs Supervision of Area under customs controls)

1. The authorized person shall provide and maintain without charge to the State such operating areas, accommodation, as facilities, buildings, equipment and storage as the Director General shall determine are reasonably necessary and suitable for the carrying out of Customs functions and tasks.
2. The authorized person shall store goods subject to customs supervision in the manner and in at the location as the Director General may direct.

3. Customs may at any time:
- (a). require the presentation of the goods held or stored in an area under customs control;
 - (b). check and re-check the entry and the exit of the goods, whenever deemed necessary;
 - (c). require the presentation, in a regular way or at random, of inventories of all or of part of the goods held or stored in an area under customs control, as well as undertake audits to the stock records; or
 - (d). nominate Customs officers for or at or the area under customs control.

Article 26 (Suspension or Revocation of Authorization)

The Director General may suspend or revoke an authorization to operate an area under customs control where he determines that the area is not or has ceased to be sufficiently utilised to justify the Customs proceedings required for its supervision.

Article 27 (Closing of Area under customs control)

Where any authorization to operate an area under customs control is annulled, revoked, or surrendered, duties and other customs fees are due and payable on all goods within that area that are or were subject to customs supervision immediately prior to the annulment, revocation, or surrender, unless the Director General permits the goods to be removed to another area under customs control or placed under a customs system.

2. In the circumstances referred to in the preceding item and during the time period set forth therein or until the goods are placed in another area under customs control, no charges will be levied to the authorized person for the reception and storage of imported goods in an area under customs control.

Article 28 (Warehouse Transfers)

1. Without prejudice to Article 205, which concerns temporary removal of goods from a customs warehouse, the movement of goods placed under the customs warehouse system shall be permitted only -

- (a). between an authorized customs warehouses;
- (b). on their import directly to an authorized customs warehouse; and

- (c). on their export directly from an authorized customs warehouse.
- 2. The movement of excisable goods held in a tax warehouse without payment of excise tax shall be permitted only -
 - (a). to another authorized tax warehouse; and
 - (b). on their export directly from an authorized tax warehouse.
- 3. Movements of excisable goods and goods placed under the customs warehouse procedure under this Article are subject to the provision of a guarantee to ensure payment of duty or other charges and ensure the adequate execution of such operations.
- 4. The Director General shall by regulation -
 - (a). prescribe the conditions under which any movement of goods under this Article shall take place and the associated documents; and
 - (b). specify the person or persons that shall or should provide a guarantee required in this Article, which may be the person authorized to operate the tax or customs warehouse sending or receiving the goods, , the transporter, or the owner of the goods.

Chapter III (Authorized Activities)

Section I (Customs Brokers)

Article 32 (Requirement of a License)

1. No person may make a customs declaration on behalf of, or in the name of, another person unless that person owns a valid customs broker license issued by the Director General.
2. Without prejudice to the provisions in the preceding item and this Code regarding the entitlement to representation, an employee or officer of a legal person who submits the customs declaration on behalf of that legal person shall not be required to own a customs broker license.

Article 38 (Guarantee)

Prior to engaging in activity as a customs broker, a person licensed under Article 32 shall submit a guarantee to the minimum amount of US\$20,000 up to US\$ 40,000 for individuals or of US\$ 80,000 for brokers to comply with the customs laws to be provided at the customs port with jurisdiction of the customs broker's domicile.

Article 42 (Recordkeeping and Reports)

The authorized licensed customs broker shall keep and produce on demand of Customs such books and records when requested, and shall make such reports as the Director General may prescribe as necessary to protect represented persons, ensure the proper collection of revenue and compliance with the customs laws, and carry out the provisions of this Section.

Article 40 (Identity Card)

1. Upon application by an authorized customs broker, and payment of such fees as may be prescribed, the Director General shall issue an identity card.
2. The Director General shall issue a declarant identity card on application and payment of such fees as may be prescribed to a person who regularly makes customs declarations on his own behalf or who, as an officer or regular employee of a legal person, is authorized to make customs declarations on behalf of such legal person.
3. The form and manner of the application, any required supporting documents, and any conditions or restrictions on use of the identity card under this Article shall be prescribed.

Article 28 (Suspension or Revocation of License)

1. The Director General may suspend or revoke a license issued to a customs broker in the following cases when-
 - (a). determines that such customs broker has, in the course of his customs business, tried to with intent to defraud, in any manner wilfully and knowingly deceived, misled or threatened any present client or prospective client;
 - (b). the professional performance of such customs broker is assessed as unsatisfactory by evidence of errors recorded in their customs declarations delivered to customs, in accordance with guidelines published by the Director General;
 - (c). determines that such customs broker does not actively perform the job as a customs broker.
2. The Director General shall revoke a customs broker license issued to a legal person if he determines that such customs broker failed to employ for any continuous period of 120 days at least one officer or other person in a position with responsibility for management of its business operations who is licensed under Article 24.

Section II (Authorised Operators)

Article 46 (Authorised Operators)

1. The Director General shall, as shall be prescribed, grant the status of authorised operator to persons established in Timor-Leste who have demonstrated an appropriate level of compliance with the customs laws and fulfil such other criteria related to compliance or the risk of non-compliance without prejudice of the customs controls.

Section III (Lighterman)

Article 48 (License)

1. The activity of lighterman in the customs areas designated by the Minister shall be subject to obtaining a license.
2. An application for a license to transact business as a lighterman shall be made to the Director General according to the rules he deems appropriate.

Article 49 (Eligibility Criteria)

1. After consultation with the Port Authority of Timor-Leste, the Director General shall define and prescribe the appropriate criteria necessary for the activity as a lighterman to ensure protection of the revenue and compliance with the customs laws.
2. When defining such criteria, the Director General shall take into account the profile, qualifications, and experience of the applicant and fitness of his equipment, and shall require the provision of a guarantee.

Article 52 (Mooring Place)

Whenever necessary, Customs may agree with the Port Authority of Timor-Leste in designating anchorages for conveyances operated by a lighterman.

Article 51 (Records and Reports; Identification)

1. The lighterman licensed under this Section shall keep and produce whenever requested to do so by Customs such books and records, and shall make such reports, concerning his transactions as the Director General may prescribe.

TITLE III CUSTOMS RULES AND DECISIONS

Chapter I (Customs Rules)

Article 62 (Consultation with Stakeholders)

Before the promulgation of an implementing measure of this Code, the Minister or the Director General, as the case may be, shall ensure that interested persons are consulted and offered a reasonable opportunity to comment on the proposed measure unless the referred measure determine that such consultation and comment are impracticable, unnecessary or contrary to the public interest.

Article 63 (Prior Publication)

Implementing measures in terms of this Code shall be published not less than 30 days prior to their entry into force except as the Minister or the Director General, as the case may be, may otherwise provide due to urgent circumstances or other good cause, which reasons shall be published with the measure.

Chapter II (Customs Decisions)

Article 64 (Issuance of Customs Decisions)

1. Where the applicant requests the Customs a decision relating to the application of the customs laws, he must provide the officials within a maximum of 10 days all the necessary items and documents.
2. Without prejudice to time periods for specific decisions provided by the customs laws, Customs shall make a decision and notify the applicant, and at the latest 30 days, following the date of receipt of all required information.
3. This period, however, may be extended when Customs is unable to comply with it. In this case, officials will inform the fact to the applicant, before the end of the period set forth above explaining the reasons for the extension as well as the new period that they deem necessary to decide about the request.
4. If no decision is made within the 30 (thirty) days period the request will be considered denied.
5. Before a decision is made by Customs, the interested person shall be notified in writing of a prior hearing.
6. The decisions referred to in the preceding item are those regarding issues such as:

- (a). annul, suspend, cancel, revoke or amend an advance ruling or any license or authorization issued under the customs laws;
- (b). the corrective assessment a customs declaration pursuant to Article 169, if the it requires payment of new or additional duties and taxes; or
- (c). impose an administrative penalty,

The decisions referred to in the preceding item are those regarding issues such as:

7 If the application is denied, the applicant shall be informed in writing including the reasons for the denial and the right to appeal.

8 The Customs decision shall take effect after the appeal period according to this Code.

Article 65 (Annulment and Revocation of Customs Decisions)

1. Any decision that is favourable to the interested party shall be annulled if it is given based on imprecise or incomplete elements;
 - (a). the applicant knew or ought reasonably assume he would have known that the information was imprecise or incomplete; and
 - (b). the decision would not be made based on imprecise or incomplete elements.
2. Without prejudice to grounds of revocation of specific decisions elsewhere set out in this Code, the Director General may at any time revoke a preceding-issued decision where he determines that such decision does not conform to, or is not consistent with the proper implementation of, the provisions of the customs laws.
3. The annulment of the decision shall be communicated to the party of this decision.
4. The annulment will be effective from the date that the annulled decision is given.

Article 66 (Advance Rulings)

1. On an application by the interested party, Customs shall issue an advance ruling in respect of tariff classification, the country of origin of goods or such other matters as the Director-General may prescribe.
2. No advance ruling will be issued where the application:
 - (a). concerns a current or completed customs transaction, or
 - (b). presents a question that is pending before a court in which Customs or any of its

officers is a party.

3. An advance ruling made by Customs shall be binding upon Customs and on the applicant with respect to the matters set forth in the ruling.

4. The Director General is responsible to prescribe the requirements for issuance of advance rulings under this Article, including-

- (a). the form, application content and manner of the application for a ruling;
- (b). any documents or information required to support such application; and
- (c). the length of time for which the ruling is valid.

Chapter III (Customs Appeals)

Article 70 (Decisions and Acts which allow Claim and Administrative Appeal)

1. The decisions and acts by Customs which liable to claims and administrative appeal are as follows:

- (a). assessment or corrective assessment of duties and other charges, including all underlying findings and determinations as to the tariff classification, country of origin or customs valuation of the goods;
- (b). imposition of an administrative penalty;
- (c). denial of an application for advance ruling or any authorization or license provided under the customs laws, or the revocation, suspension, amendment or annulment of any such advance ruling, authorization or license;
- (d). denial, in whole or part, of a claim for drawback or request for refund of duties and other charges;
- (e). notification of reasons for delay in release of goods under Article 168; or
- (f). seizure of goods.

2. For purposes of the preceding paragraph, Customs are expressly under the obligation to make on the submission of any request.

Article 72 (Plaintiff or Appellant)

A claim or an administrative appeal may be made by any -

- (a). person whose liability to pay any duty and other charges or an administrative penalty is determined by, results from, or is or will be affected by a decision under

Article 70, or

- (b). person in relation to whom, or on whose application, a decision under Article 39 has been made.

Article 73 (Lodging and processing of the administrative appeal)

1. The administrative appeal is lodged according to the rules by submitting a request containing all grounds for the appeal and relevant documents can be attached to it.
2. The period for lodging an administrative appeal is of 30 days after the notifications and should take into account —
 - (a). the date the debtor is notified of the customs debt with respect to decisions described in subparagraphs (a) or (b) of paragraph (1) of Article 70, or
 - (b). the date the relevant party is notified of the decision as to which the appeal is made, in all other circumstances.

Article 74 (Review of Administrative Appeal)

1. The administrative appeal is directed to the highest official to the official who made the decision, unless the jurisdiction for the decision is delegated.
2. The license to lodge the appeal may be submitted to the official who made the decision or the official to whom it is directed.
3. On receipt of an administrative appeal, the relevant official shall review the decision under appeal and may either—
 - (a). confirm the decision;
 - (b). modify or reverse the decision and take such necessary steps which, in consequence of these modifications prove adequate.
4. The Director General shall ensure that any person or office to whom he delegates his authority under this Article is independent of the person and office that made the decision under appeal.
5. If the decision that is the subject of the appeal is a decision of the Director General, the appeal shall be heard and decided by the Minister.

Article 75 (Deemed Confirmation)

Where the relevant authority to receive the appeal does not notify the appellant of the

determination on the review within a period of 30 days from the date the administrative appeal was submitted, the decision under review may be deemed, for the purposes of the appellant's exercise of any right to further administrative or judicial appeal of decisions by Customs provided under law.

Article 76 (Effect of the appeal)

1. The obligation to pay any duty, other charges or administrative penalty under the customs laws shall not be suspended by an administrative appeal made under this Chapter; provided, where imposition of an administrative penalty is the subject of the appeal, the Customs may allow the provision of a guarantee in lieu of payment pending final decision of the appeal.
2. If the appealed decision is modified or reversed, Customs shall reimburse or refund immediately any duty, other charges or administrative penalty found to have been collected in excess.

Article 77 (Finality of Decisions)

1. Decisions of Customs referenced under paragraph 1 of Article 79 shall be final and enforceable upon all persons, including Customs, unless an administrative appeal is made in accordance with this Chapter, or unless an appeal against the confirmation (or deemed confirmation) of the decision is made to the competent administrative tribunal or court pursuant to law within the time prescribed.
2. When the decision on further appeal to such administrative tribunal or court becomes final, a copy of that decision shall be transmitted to Customs, which shall take action accordingly.

TITLE IV EXCHANGE OF INFORMATION

Chapter I (General)

Article 14 (Parties' rights to information)

1. 1.
2. The parties have the right to be informed by Customs upon request about:
 - a) The processing of procedures on which they have a direct interest and the final decision that have been made;

- b) The general or specific application of customs law, regulation, instructions, final resolutions and decisions by the World Customs Organization.
- 3. The Customs may issue by means of letter or other means of communication instructions and guidelines which may prove to be indispensable to comply the standards regarding their area of competence.
- 4. In principle, the information given by Customs are free of charge, except those which incur in expenses, namely those originating in analyses and investigations made, in such cases, the expenses will be charged to the plaintiff.

For the purposes of this article, Custom shall establish the proper sites for information.

Article 15 (Publication)

- 1. Without prejudice to the following item, the forms regarding the customs declaration, the collection of customs revenues, the enforcement of a system to assess the customs value of the goods or the compliance of the obligations provided for in this Code and other customs law in force, are approved by the Minister by proposal the Director General.
- 2. The forms regarding the customs control of people, goods and means of transportation are approved by the Minister.

The updated list with all forms in use as well as the sites where they can be acquired, as much as possible, shall be published at the official Finance Ministry or Customs websites.

Article 16 (Consultations)

Customs shall set forth good practices in order to and maintain regular and formal consultations with other relevant government agencies and the private sector involved in international trade on matters related to the implementation of the customs laws.

Article 49 (Professional Confidentiality)

- 1. Customs officials are bound to professional confidentiality regarding confidential facts, information and documents which they come to know while performing their functions.
- 2. The confidentiality duty ends when the disclosure of confidential facts, information and documents is expressly authorized by the person or entity which supplied them.

3. The confidentiality duty also ends, under this article, when the disclosure of facts, information and documents are ordered by a judicial order issued by the relevant court or by law.
-
1. Without prejudice to the provisions related to lapse and pre-emption of customs debts, the person in Country involved in international trade and other activities subject to Customs jurisdiction, should keep, in an organized manner regarding accounting records, all documents and books regarding customs operations for a five-year period.
 2. The period referred to in paragraph 1 shall run from the time when, pursuant to the procedure in question, the declarant or interested party has undertaken or should have undertaken the acts that complete the procedure.
 3. Upon request by Customs, the persons referred to in item 1 should:
 - a) make available to Customs all documents and books regarding customs operations;
 - b) supply Customs, according to the conditions set forth by Customs, copies of such documents and books;
 - c) answer any question regarding customs inspections and the respective documents and books.
 4. Whenever the information regarding customs operations are included in an electronic register, under Title V, or any other type of means, people referred to in number 1, as prescribed by Customs, should use or enable the use of a data storage or processing device or platform so that all information is made available, namely:
 - a) the electronic record in the form in which it was transmitted,
 - b) such information as to enable the identification of the origin, destination, and date and time of the transmission, and
 - c) all documents, records or information, in their original form, transmitted by means of, or used in the preparation of, the electronic record.
 5. Records required to be kept under this article shall be produced upon demand to Customs for purposes of customs control. Electronic records shall be produced in the form of a print-out or such other output form as Customs shall specify.
 6. In case a person obstructs or otherwise condition the immediate presentation of the documents herein violates the customs law and is subject to an administrative sanction.

CHAPTER II (Electronic Records and Payments)

Article 3 (Definitions)

In this Section: –

- (a). **“Customs information system”** means any system established or appointed by the Director General for generating, sending, receiving, or otherwise processing the documents or payments designated under Article 52.
- (b). **“Document”** means a declaration, report, statement, return, application,

notification, receipt or any other writing.

(c). "**Electronic**" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(d). "**Electronic record**" means a record created, generated, sent, communicated, received, or stored by electronic means.

(e). "**Electronic signature**" means data in electronic form in, affixed to or logically associated with, a record, which may be used to identify the signatory in relation to the record and to indicate the signatory's intention in respect of the information contained in the record.

(f). "**Record**" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Article 79 (Records and Payments)

1. The Director General is responsible, by notification published in the Journal of the Republic designate -

(a). those documents required or provided for under the customs laws that may be transmitted by means of a prescribed electronic record;

(b). those payments required or provided under the customs laws that may be effected by a prescribed electronic form; and

(c). or appoint the customs information system to which such documents may be transmitted or by means of which such payments may be effected.

2. Electronic transmission of documents or payments designated in the preceding paragraph are subject to authorisation of the Director General under Article 80 and such other conditions as may be prescribed.

3. The Director General may prescribe that documents or payments designated referred to in paragraph 1 in this article to be transmitted in electronic form, without prejudice to the exceptions which may be prescribed.

Article 80 (Authorisation)

1. Any person who is required under the customs laws to submit documents or make payments designated under the preceding Article and provided they meet such eligibility criteria as the Director General may prescribe may apply in writing to the Director General

for authorisation to submit such documents or make such payments by means of the prescribed electronic form.

2. If the applicant, under the preceding item, who meet the criteria referred to in that paragraph, the Director General shall, in writing, grant the requested authorisation, subject to such conditions as he may at any time impose.

Article 81 (Submission of documents)

For the purposes of the customs laws, if a person files or otherwise provides a document or payment in electronic form by means of a customs information system in accordance with the prescribed conditions, the document or payment is deemed to be filed or provided in compliance with the law on the appropriate date and place.

Article 82 (Signature Requirements)

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

Article 83 (Legal requirements)

1. As long as the requirements prescribed in this Chapter are met, any document electronically processed meets the legal requirement of written form when its content is likely to be a written statement, except if no other proof is required.
2. As a rule, where any provision of the customs laws requires a record to be in writing, an electronic record that meets this requirement under this Chapter is an electronic record..

Article 84 (Automated Decisions and Provision of Information)

Where the customs laws provides the practice of a certain administrative act by Customs, its electronic record generated automatically by a customs information system, has the same effect as those by customs officials.

Article 85 (Access to Customs Computer Systems)

1. The customs information system is hosted in a dedicate domain and under exclusive control by Customs.
2. Access and handling of any customs information system need to be authorised under Article 80 of this Code.

3. Access to data about persons and organizations involved in customs activities is restricted to custom duly authorized customs officials.
4. Customs officials who access the customs information system without authorization or misuse the data in the system are subject to disciplinary procedures if no other more serious measure is applicable.

Article 86 (Technical Requirements)

The Director General is responsible to prescribe-

- (a). the manner and form in which the electronic records shall be created, generated, sent, communicated, received, and stored and the systems established for those purposes;
- (b). if electronic records must be signed by electronic means, the type of electronic signature required, the manner and form in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third parties used by a person may file a document to facilitate the process;
- (c). the control processes and procedures as appropriate to ensure the adequate preservation, disposition, integrity, security, confidentiality, and auditing of electronic records; and,
- (d). any other requirements for electronic records which are specified for corresponding documents under the customs laws.

TITLE V FOREIGN TRADE DATA

Article 87 (Competence of the Customs)

1. Customs shall ensure the collection of statistical data relating to foreign trade operations.
2. The collection of statistical data is done by means of a copy of the Unique Administrative Document (DAU).
3. In cases where the customs declaration is done orally with the resulting payment of customs duties and other charges, Customs will process the statistical document using their own model.
4. The relevant Customs department shall prepare the foreign trade statistics of the

preceding month by the last day of each month.

5. Annual foreign trade statistics shall be published until the 1st quarter of the ensuing year.

TITLE VI BASES OF TAX AND DUTY ASSESSMENT

CHAPTER I (The Customs Tariff)

Article 61 (Publication of the Customs Tariff)

1. The Minister is responsible for publishing the Timor-Leste Customs Tariff.
2. The Timor-Leste Customs Tariff comprises:
 - (a). the Commodity Nomenclature, under the International Convention on the Harmonized Commodity Description and Coding System of July 14, 1983 and the respective Amendments and Explanatory Notes;
 - (b). subdivisions to the Harmonized System established by the Director General;
 - (c). preliminary instructions, additional section or chapter notes and footnotes relating to such subdivisions;
 - (d). import duties and export duties, rates, exemptions and suspensions provided under the Tax and Duties Act (Decree-Law No. 8/2008) in force and other law of Timor-Leste in relation to the Harmonized System product group or any subdivision thereof; and
 - (e). units of measure of goods as the Director General may establish for statistical purposes.

Article 91 (Amendment of Customs Tariff)

The Minister is responsible to propose amendments to the Customs Tariff where necessary and considering for the:

- (a). implementation of any international obligations on tariffs and trade binding on Timor-Leste;
- (b). implementation of an international agreement to which Timor-Leste is a party, or any amendment to such agreement;
- (c). changes due to the
 - (i) terminology used in international tariffs and trade instruments or mechanisms

or procedures applicable to international trade,

- (d) incorporate new import duties or changes to export duties, rates, and exemptions established by law.

Article 88 (Tariff Classification)

1. Customs Tariffs based on the Harmonized Commodity Description and Coding System referred to in Article 90.⁹, establishes the customs duties payable by commodities.
2. Due to the requirements of international trade, national developments can be made to the Customs Tariff.
3. The Minister is responsible to authorize the introduction in the Customs Tariff text of the occasional updates of the International Convention on the Harmonized Commodity Description and Coding System approved by the World Customs Organization.
4. Besides the customs duties established by the Customs Tariff, Customs should also charge other taxes and charges whose revenue collection has been imposed on them.

CHAPTER II (Origin of the Goods)

Article 94 (Country of Origin)

1. For purposes of application of the customs laws, goods wholly obtained in a country are deemed to originate in that country.
2. "Goods wholly obtained in a country" are considered:
 - (a). Mineral products extracted from the soil or subsoil of that country;
 - (b). Vegetable products harvested in that country;
 - (c). Live animals born and raised in that country, including hunting, fishing, and fishery production;
 - (d). Products obtained from a living animal raised in that country;

- (e) Products obtained from hunting and fishing done in that country;
 - (f) Products of sea-fishing and other products taken from the sea outside a country's territorial sea of any country by vessels registered in the country concerned and flying the flag of that country;
 - (g). Goods obtained on board factory ships from the products referred to in subparagraph (f), originating in this country, provided that such factory ships are registered or licensed in that country and fly its flag;
 - (h). Products taken from the seabed or marine subsoil outside the territorial sea, provided that that country exercises the exclusive rights to exploit that seabed or subsoil;
 - (i). Waste and scrap products derived from manufacturing operations and disused articles, as long as they were collected therein and are fit only for the recovery of raw materials;
 - (j). Goods which are obtained concerned exclusively from the goods referred to in subparagraphs (a), and (i) or their derived products regardless of manufacturing phase
3. For the purposes of the application of the preceding item, the concept of country encompasses its territorial waters.
4. Where the production of goods involves two or more countries, the goods are deemed to originate in that country where they last underwent a substantial transformation.

Article 95 (Proof of Origin)

1. Where the origin of goods is indicated in the customs declaration, Customs may require the declarant to prove their origin. In case of suspicion of fraud, , Customs may require the declarant to provide proof of origin issued by the competent authorities of the country of origin.
2. The goods origin will be justified by producing a certificate of origin or similar document.
3. Regardless the presentation of such documents, Customs may, in case of real doubt, require the presentation of other means to prove the origin of goods.
4. In case of goods received by post, the proof shall be by seals and stamps on the packages or on the respective documentation.

CHAPTER III (Value of Goods for Customs Purposes)

Article 98 (Customs Value of Imported Goods)

The customs value of imported goods shall be determined based on the principles set out in Schedule 1 attached to this Code.

Article 99 (Customs Value of Exported Goods)

The customs value of exported goods is the price at which such goods or like goods are sold or offered for sale at the time of export in the ordinary course of trade under fully competitive conditions inclusive of the costs of transportation to the port or place of export.

TITLE VII ARRIVAL AND DEPARTURE OF CONVEYANCES

CHAPTER I Arrival of Conveyances

Article 104 (Advance Conveyance and Cargo Declaration)

1. The person-in-charge of a conveyance that is due to arrive at the territory of Timor-Leste shall submit a declaration, in the form and manner and within such time periods as the Director General shall prescribe, including the following data:

- (a). probable date arrival of the conveyance;
- (b). its voyage;
- (c). its crew and passengers, if any
- (d). a cargo declaration of all goods to be brought into Timor-Leste, whether or not intended for discharge; and
- (e) the customs port or free zone at which the conveyance will enter.

2. The owner or operator of the conveyance referred to in the preceding paragraph, or the agent thereof, may submit the declaration according to paragraph 1 of this Article on behalf of the person-in-charge of the conveyance.

3. The Director General may prescribe such exceptions and variations to the requirements set forth in this Article as appropriate to take into account the modes of transport, types of operators or conveyances, or other considerations related to risk or kind of transactions involved.

Article 112 (Correction of Information Regarding Conveyance and Cargo Declaration)

Customs shall permit the person-in-charge or owner or operator of the conveyance or the agent thereof to correct the declaration submitted under Article 104 by delivering a substitute or complementary declaration unless:

- (a). the person-in-charge or owner or operator of the conveyance or the agent thereof has been informed by Customs that the goods will be subject by customs checks;
- (b). the information in question had been already established by Customs to be incorrect;
- (c). the goods have been allowed to be removed from the place of arrival; or
- (d). the period for submission of an outturn report under Article 134 has expired.

Article 113 (Conveying Goods to Customs)

1. The person-in-charge for the means of transportation shall not do or authorize the mooring of a vessel or the landing of an aircraft in other location other than the customs port or free zone which, in case of the vessels or aircrafts to which Article 104 apply, shall be the customs port or free zone declared by the person according to this Article, when: –

- (a). arrives to Timor-Leste from abroad, or
- (b). is carrying passengers or goods and not yet cleared on importation,

2. Any person importing or concerned with importing any goods by means of a vessel or aircraft can only bring the goods into a customs port or free zone.

3. The person in charge of any vehicle or vessel entering Timor-Leste by land or sea shall proceed to the customs port nearest to the point at which he shall have crossed the border by such approved routes as may be designated by Customs.

4. The person-in-charge referred to in the preceding item may request to Customs that he proceed to another place other than a customs port or free zone and Customs may permit subject to certain conditions.

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

6. A lighterman or other person who transports the goods after their introduction in the customs territory, namely following transfer of the goods is responsible for complying with the obligations set out in this Article and such goods shall be subject to such control

measures as the Director General may prescribe.

Article 114 (Impossibility to Present Goods to Customs)

1. Where, due to an act of God or of *force majeure*, it is not possible to comply with the obligation provided for in the following Article 70, the person liable to comply with such obligation or his representative shall immediately inform Customs. Where the act of God or *force majeure* does not result in total loss of the goods, Customs shall in addition be informed of the exact place where they are kept.
2. Customs shall determine the measures deemed necessary to ensure the control of the goods referred to in the preceding paragraph and ensure that their conveyance to a customs port or to any other place designated by Customs.
3. In the circumstances described in item 1 in this Article, the person in charge of the conveyance shall reimburse the State at rates prescribed by the Minister for the cost of providing the attendance by officers of customs and other relevant State agencies including the cost of the compensation due to, and any expense incurred by, those officers.

Article 115 (Notification of Arrival of Goods)

1. The person who brought the goods into the customs territory or, where it is the case, the lighterman or other person responsible for their transportation after they have been brought into the customs territory, shall notify Customs of the arrival of the goods in such form provided by customs law.
2. The notification of arrival of goods shall take place upon their arrival at the customs port or free zone of the first place of entry to Timor-Leste or any other place designated or approved by Customs.
3. The person notifying arrival of the goods shall –
 - (a). when required to do so by Customs, deliver the manifest, bill of lading or bill of freight or a copy thereof for every part of cargo or goods laden or board, passenger and crew list, journey log-book and any port clearance, docket or other paper granted in respect of such conveyance at the place from which it is stated to have come;
 - (b). supply all information requested by Customs relating to the conveyance, the goods carried therein, the crew and the voyage; and
 - (c). comply of the instructions given by Customs as to the placement or movement of

such conveyance and the unloading of goods or the disembarkation of crew or passengers.

4. Where the documents referenced in preceding paragraph are made out in a language other than one of the official languages, Customs may require the presentation of a certified translation of such documents, within such period as Customs shall specify.

CHAPTER II (Departure of Conveyances)

Article 116 (Clearance for Departure)

1. Except as otherwise set forth under the customs laws, no vessel or aircraft shall depart from any seaport or airport in Timor-Leste until Customs grants clearance for departure.
2. Application for clearance shall be made by the person in charge of conveyances or his authorized agent as prescribed by the Director General and shall be accompanied by documents relating to the crew, cargo, warehouse and port of destination.
3. The persons in charge referred to in the preceding paragraph shall permit only movement of conveyances specified in the application for the clearance for departure.

Article 117 (Clearance for the departure of goods and passengers)

1. It is forbidden the boarding of passengers or cargo in a vessel or aircraft subject to clearance for departure
 - (a). other than at a customs port and at an area under customs control authorized for that purpose or at a free zone;
 - (b). before application for clearance of the vessel or aircraft has been made;
 - (c). until a customs declaration submitting the goods under an appropriate customs procedure has been made, where required by this Code;
 - (d). outside official hours; or
 - (e). without authorization by Customs.
2. The Director General may, whenever duly justified and subject to such conditions and restrictions as he prescribes, permit passengers and goods referred to in the preceding paragraph who are or will be taken aboard a vessel or aircraft outside official hours or

outside a designated customs port or an authorized area under customs control.

3. In exceptional circumstances, The Minister in charge of Customs, upon consultation with the Minister in charge of civil aviation in Timor-Leste permit to the landing or taking off of an aircraft from a place other than a customs port at a place designated by him.

4. In the cases referred to in paragraphs 2 and 3, the person in charge of the conveyance or the agent thereof shall reimburse the State at rates prescribed by the Minister for the cost of using such facilities, including the compensation due to, and the expenses incurred by, the officers of customs and other relevant government authorities concerned.

Article 118 (Export Goods Not Loaded)

Where goods declared as export are not loaded, the person in charge of the conveyance shall notify Customs immediately.

Article 119 (Permission to Unload Goods)

Except as otherwise provided, no goods which have been placed on board of an vessel or aircraft for exportation or use as stores on board shall be unloaded therefrom without the permission of Customs.

Article 120 (Refusal or Revocation of Clearance)

1. At any time, Customs may refuse clearance of any vessel or aircraft for the purpose to comply with customs law,, where clearance has been granted, provided they are not yet en route, thus revoking the departure clearance.

2. Notification of any such revocation may be made orally or in writing to the person in charge of the vessel or aircraft and if made in writing may be served by-

(a). delivering it to him personally;

(b). leaving it on board the vessel or aircraft with the person in charge thereof; or,

(c). delivering it to the agent of the vessel or aircraft at the port of clearance.

3. Where a revocation of a clearance is made as aforesaid, the clearance shall forthwith become void.

Article 121 (Time Limit for Departure)

Clearance granted under this Chapter shall be deemed null and void where the vessel or

aircraft does not depart the port or airport within twenty-four hours of issuance of the clearance.

Article 122 (Cargo Manifest; Passenger List)

Not later than four days from the date clearance of a vessel or aircraft under this Section, the person in charge or his authorized agent shall deliver to the Customs at the customs port at or nearest to the port or place of departure a cargo manifest of all goods loaded on the conveyance for exportation as well as a list of passengers embarked.

CHAPTER III (Unloading and comparison of Goods)

Article 132 (Permission to Unload)

1. The goods may only be unloaded or transhipped from the conveyance where they are transported by Customs authorisation and at the designated places and shall not be done as provided in Article 105

- (a) prior to such notification of arrival;
- (b). other than at area under customs control authorized for that purpose;
- (c). outside office hours;
- (d). without permission of Customs; and
- (e) other than for immediate storage in an area under customs control authorized for temporary storage port of arrival.

2. The requirements in the preceding paragraph shall not apply in case of imminent danger forcing the immediate total or partial unloading of the goods. In such cases, Customs shall be informed forthwith.

3. Except as otherwise authorised by the Director General, goods unloaded from a vessel into another vessel in a customs port shall forthwith be removed to and unloaded at an area under customs control authorized for that purpose or such other place as may be designated by the Director General.

4. The Director General may, when duly justified and subject to such conditions and restrictions as he sees fit, permit exceptions to the provisions of paragraph 1 of this Article.

5. Customs may at any time require the unloading and unpacking of goods in order to ensure their control as well as the control of the conveyance transporting them.

Article 133 (Prohibition to Change Place of Unloaded Goods)

After unloading, the goods cannot be removed from the place where they were initially placed with Customs authorisation.

Article 134 (Checking of Unloaded Goods)

1. The person in charge of a vessel or aircraft, or such person's authorized agent, shall submit to Customs an outturn report of all goods landed from such conveyance.
2. The outturn report shall:
 - (a). specify any goods included in a cargo declaration that have not been unloaded or, if there are no such goods, a statement to that effect; and
 - (b). specify any goods not included in a cargo declaration that have been unloaded or, if there are no such goods, contain a statement to that effect.
3. The request for outturn report shall be submitted:
 - (a). in the case of goods unloaded from a vessel, not later than five days from the date of completion of discharge of a vessel, and
 - (b). in the case of goods unloaded from an aircraft, within 24 hours after the time of the arrival of the aircraft to the port or within such other periods as may be prescribed.
4. Customs with indicate officers to compare the declared goods for unloading. After unloading, the officer, will prepare an outturn report with these information:
 - a) Identification of conveyance;
 - b) The commercial name for the goods, source and origin of goods;
 - c) The number of packages and weight of goods unloaded.
5. In cases where violations to customs law are determined, the customs port supervisor will be informed and will prepare a report notice. If goods which, under the law, whose import is prohibited, the officers will seize them, and the goods will be under Customs custody until decision by the competent authority.
6. The outturn report and the communication shall have a date and be signed by the officer and validated by a Customs stamp; a copy will be appended to the report notice.
7. The Director-General shall prescribe the cases in which the requirement for the outturn report may be waived or adapted, and the conditions for any such waivers or adaptations.

Article 135 (Checking of Export Cargo)

The provisions of the preceding Article shall apply, with the necessary adaptations to the loading of goods declared for exportation.

CHAPTER IV (Temporary Storage)

Article 139 (Temporary Storage of Goods)

1. While waiting for their customs destination, the goods presented to Customs are held in a temporary warehouse.
2. The goods referred to in the preceding paragraph can only be stored in places authorised by Customs and the conditions therein.
3. Customs may require that the person in possession of the goods the provision of a warranty to ensure the possible customs debt payment.

Any person who removes goods from areas under customs control before the clearance will be subject to an administrative penalty.

Article 140 (Prior Examination and sampling)

When presented to Customs, the goods may, by Customs authorization, be examined and sampled in order to classify them and allocate a customs destination; all expenses shall be paid by the declarant.

Article 141 (Handling)

1. Without prejudice to the provisions of the preceding Article, goods under temporary storage may only be handled provided this does not modify their appearance or technical characteristics.
2. Only handling to maintain the conditions of goods will be allowed.

Article 142 (Delayed Goods)

1. Customs will take all necessary steps, including sale, to regularize the goods status regarding the fulfilment of formalities to allocate a custom destination if this has not been initiated in the period prescribed by article 157.
2. Goods in temporary storage shall be deemed to be abandoned to the State where-
 - (a). the fulfilment of the formalities to allocate a customs procedure is not fulfilled or a request for abandonment or destruction of the goods is not made, within the

periods set forth under Article 157;

(b). the goods cannot be released because-

(i). it has not been possible, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period specified by the Customs; or

(ii). without prejudice to provisional release under Article 172, the supporting documents for allocating the customs procedure declared have not been made available to Customs; or

(iii). payments or a guarantee which should have been made or provided in respect of customs duty or other charges have not been made or provided within the period prescribed; or

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

3. Customs may order the transfer of such goods, at the expenses and risk of the person in which possession they are, to a place under control until the situation is regular.

TITLE VIII ARRIVAL AND DEPARTURE OF PERSONS

Article 144 (Unloading of Passenger and Baggage)

1. Passengers and crew members aboard a vessel or aircraft may disembark as soon as they are permitted to do so and they opt to accompany their baggage not in the manifest, which will be taken elsewhere for inspection.

2. Baggage or any transported object by passengers are subject to customs control.

3. A person arriving in Timor-Leste by means other than a conveyance referenced in paragraph 1 in this article shall immediately report their arrival and present themselves and all their accompanying goods to Customs at the customs port at or nearest to the place of arrival, together with appropriate information concerning the conveyance on or in which they arrived.

Article 149 (Departure of Passengers)

The provisions for the entry of people in the territory shall apply with safeguards for the exceptions which may be referred to in customs law.

Article 145 and 146 (Customs Examination)

Article 145.º

Baggage examination and personal search

1. Customs examine baggage for the contents of the baggage volumes in the manifest or transported by passengers as well as personal search for the objects transported by the passengers on themselves or clothes.
2. The passenger may issue an oral declaration which will be transcribed in the manner and format prescribed.
3. The personal search of passengers will take place only exceptionally and only there are grounded reasons of suspicion of a customs violation and the customs officers have the special obligation to avoid any vexatious situation or comments and also to reduce any inconvenience to the passengers to a minimum.
4. Officers in charge of examining baggage may request that passengers produce their passports or other documents for identification purposes and the ticket as well as invoices or other documents in connection with the goods.
5. Passengers who bring goods in their baggage for commercial purpose shall inform this to Customs or they will be subject to an administrative penalty.
6. While examining the baggage, if Customs detect goods for business purposes, these will be set apart for tax purposes.
7. In case of goods in accompanied baggage are allocated a business purpose, Customs will seize them and separate them and will enter them the appropriate form.
8. Customs officers may request a customs declaration in writing by filling a document to be prescribed by the Director-General for the goods transported by the passengers whenever they are for import or export for business purposes.
9. If they detect goods that, under the law, the import of which is prohibited, they will seize them and, if necessary, to detain the passenger.
10. The seized goods will be stored under Customs custody until decision by the competent authority.

Article 146.º

Waiver of personal search de

Without prejudice of accords or other instruments under international law of which Timor-Leste is a signatory, and the provisions in the preceding article in connection with baggage, the Government, in certain circumstances, under the law, may waive the personal search for certain national and international persons.

TITLE IX CUSTOMS DECLARATION

CHAPTER I (Normal Procedure)

Article 152 (Obligation to Declare)

1. Except for goods entered into a free zone, and without prejudice to provisions on abandonment or destruction under Customs supervision, all goods that arriving in the customs territory shall be declared by the importer thereof by-

(a). a customs declaration which can be in oral form, in writing or electronic means under the following provisions:

2. All goods destined for export or departure from the customs territory shall be declared by the exporter thereof and the preceding paragraph applies

3. Under this Article, the declaration may be made on behalf of the importer or exporter of the goods, as the case may be, or a legal representative.

Article 157 (Place for Submission of Customs Declaration)

1. Customs declarations shall be submitted at the customs port where the goods arrive, subject to following time limits, under article 138, from the date of notification of arrival of the goods at Customs:

(a). thirty days for goods arrived by sea;

(b). twenty days for goods arrived by any other way.

2. The customs declaration may be submitted before the arrival of the goods.

3. When receiving a customs declaration under the preceding paragraph, Customs may determine a time limit for the arrival of the goods which shall not exceed forty-eight hours.

4. Where notification of arrival of the goods is not made within the time limit referred

to in the preceding paragraph, the declaration shall be considered null and void.

Article 158 (Effects of the Declaration)

1. –Without prejudice of the enforcement of the sanctions under the law, the submission of a customs declaration, signed by the Declarant or his representative is binding regarding:

- (a) the accuracy of the data or elements contained in the declaration;
- (b) the authenticity of the documents jointly;
- (c) the compliance with all obligations inherent to submitting the goods to the declared customs procedure.

2. Where a customs declaration is made by a representative on behalf of the declarant, that representative shall also be bound by the obligations set out in the subparagraph (a) of paragraph 1.

3. The customs declaration by electronic means is deemed delivered upon receipt of the message by Customs who shall, by the same means, acknowledge receipt.

4. When the customs declaration is submitted by electronic means, the clearance, when exceptionally the goods are not examined, will be notified to the declarant by a message including, at least, the register number of the declaration and the clearance date.

Article 159 (Acceptance of Customs Declaration)

1. Custom officers shall also make sure that the declaration is duly signed and all associated documents are duly countersigned.

2. Upon acceptance, Customs write in the declaration the order number, the date and time and notify the declarant.

Article 160 (Amendment of Customs Declaration)

1. After the customs declaration has been accepted, declarants shall only be authorised to amend them upon request duly justified and upon presentation of a new declaration form.

2. No amendment can result in focusing declarations on goods distinct from those initially declared.

3. An amendment shall not be authorised if the respective request to do so has been made after Customs has:

- (a) informed the declarant of their intention to examine the goods;
- (b) found the elements to be inexact; or
- (c) authorised the release of the goods for free circulation.

Article 161 (Invalidation of Customs Declaration)

1. At the request of the declarant, Customs shall invalidate a customs declaration already accepted when there is evidence that a mistake occurred in the declaration made insofar as the declared customs procedure or when, following special circumstances, the placement of the goods under the customs procedure for which they have been declared is no longer justified.

2. Once Customs has informed the declarant of its intention to examine the goods, the request of invalidation may only be accepted after the checking has taken place.

3. Invalidation of a declaration shall not bar the application of the sanctions provided by law.

Article 97 (Comparison and verification of customs declaration)

For the purpose of comparing and verifying the accuracy of the customs declaration and compliance with any prohibitions or other requirements set out in the customs laws or other applicable laws of Timor-Leste regarding the import or export of the goods, as the case may be, and subject to the provisions in Article 53, Customs may:

- (a) compare and verify the customs declaration and any of the supporting documents;
- (b) require the declarant to present additional documents;
- (c) inspect the goods, or cause the goods to be inspected, under article 184 of this Code by means of customs aids;
- (d) examine the goods;
- (e) have the goods examined by any other border authority; or
- (f) take samples for testing or analysis or for detailed examination of the goods.

Article 162 (Assessment)

1. For payment purposes, Customs shall-

- (a). determine the tariff classification, country of origin and customs valuation of the goods, and
 - (b). assess the amount of duties and other charges to be paid, where applicable, on such goods.
2. The declarant shall be notified without delay of the said assessment and amounts due, if any.
3. The customs value, tariff classification, country of origin, rate of duty and amount of duties and other charges as set out in the customs declaration by the declarant may be accepted in lieu of an assessment by Customs under paragraph 1 of this Article. In such circumstances, the notification of release shall be deemed an assessment by Customs for purposes of this Code.

Article 164 (Examination of Goods)

1. Where goods are selected for examination or sampling by Customs or other border authority for purposes of verification of the customs declaration, Customs shall promptly notify the declarant.
2. Expenses resulting from the taking of samples as well the prior examination of goods shall be borne by the declarant, and the quantities of goods taken shall not exceed the necessary to allow the proper analysis or verification, including a possible counter-analysis.
3. The declarant or his representative shall assist the checking of the goods. Where they cannot or are unwilling to assist the checking of the goods, Customs shall examine the goods without their presence.
4. The examine entails the control of all elements in the declaration and their conformity to the goods declared and the corresponding provisions applicable to the customs procedure.
5. Where the results of the test or examination of the sample are unfavourable to the declarant, Customs may, on request of the declarant, repeat them and, if appropriate, may accept the results of such test for purposes of verification of the customs declaration:
- provided that such second test or examination shall be permitted only if the goods have not been released or that, if they have been released, the declarant proves that they have not been altered in any way.
5. The Director General may authorise a duly authorized laboratory to conduct tests or examinations of imported goods for any purposes under this Code. Designation of such

laboratories shall be subject to prior accreditation and supervision by Customs in accordance with such regulations and procedures as the Director General may prescribe. Customs shall ensure the publication of the name and address of the authorised laboratories.

7. After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the declarant, but if the declarant fails to take delivery of the sample within one month of the date on which he is asked in writing to take its delivery, it may be destroyed of in such manner as Customs may decide.

8. Under these article, the following are customs violations:

a) Wrongly declare the type and/or quantity of imported goods, with a lower payment of import duties and other charges;

b) The person who wrongly declares the type and/or quantity of imported goods, without the payment, less the import duties and other charges;

c) he person who wrongly declares the type and/or quantity of exported goods.

9) The administrative penalties corresponding to paragraph 9 of this article are disposed in Title XIX Violations of this Code.

Article 165 (Time and Place for Customs Examination)

1. Where Customs decides to examine the goods, the examination shall be carried out at the places and during the times established by them.

2. Where examination, sampling, or other control of the goods will be carried out by or on behalf of other competent authorities, Customs shall ensure, where feasible, that customs controls and controls by or on behalf of such other authorities are conducted at the same time and place.

3. In exceptional cases duly justified, examination may take place at times and places different from those established in paragraph 1 of this article and the resulting expenses shall be borne by the declarant.

4. The expenses resulting of the transport of goods referred to in the precedent paragraph shall also be borne by the declarant.

Article 166 (Release of Goods)

1. Goods covered by a customs declaration shall be released as soon as it is determined that-

- (a) all conditions required by the appropriate customs procedure are fulfilled, including payment or, where permitted, the provision of security for payment, of duties and other charges, or provision of a guarantee, if required;
 - (b) the goods are not goods the importation or exportation of which is prohibited by law;
 - (c) any license, permit or other authorization required by law for the importation or exportation of the 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 providing, at least, the registration number of the declaration and the date of the release.

Article 168 (Notification of Reasons for Delay in Release)

Where goods are not released within five working days following date of acceptance of the customs declaration, or such shorter period as the Director General may prescribe, Customs shall, no later than two working days following receipt of a written demand of the declarant, notify the declarant in writing of the specific reasons for the delay.

Article 169 (New Assessment)

Subject to the time limitation on, Customs may from time to time make, or cause to be made, such changes to the assessment of duties and other charges to ensure the correctness of the assessment, including the tariff classification, country of origin, or customs value of the goods taken for the purpose of such assessment, even though the goods to which the assessment relates are no longer subject to customs control or the amounts originally assessed have been paid.

CHAPTER II (Simplified Procedures)

Article 172 (Provisional Release)

1. Without prejudice of the conditions set out in the following paragraph, Customs shall allow the release of goods prior to assessment of duties and other charges on the basis of a simplified declaration.
2. The release of goods referred to in the preceding paragraph is subject to:
- (a) submission of declaration with least the necessary information for the identification

- of the goods in the form prescribed by Director General;
- (b) provision of a bank guarantee according to the manner and amount as Customs determines sufficient to ensure payment of the probable duties and other charges due on the goods; and,
 - (c) the determination by Customs that the goods are not goods the importation or exportation of which, as the case may be, is prohibited by law and that any license, permit or other authorization required by law for the importation or exportation has been obtained.
3. Within a prescribed period following release of the goods, the declarant shall furnish a supplementary declaration containing the further details necessary to complete the customs declaration for the customs procedure concerned.

Article 173 (Simplified and Alternative Processes)

1. To expedite the release of goods, by Minister resolution the simplified procedure will be regulated in the following cases:
- (a).for goods carried on the person or contained in the baggage of a person arriving or departing from Timor-Leste;
 - (b). for commercial means of transport and means of transport for private use that are subject for temporary importation or re-importation in the same state;
 - (c). for goods to aid those affected by disaster, including goods for use by disaster relief personnel in carrying out their duties;
 - (d). for live animals and perishable goods;
 - (e). in concrete cases which demand alternative declaration, verification and introduction of goods for free circulation procedures, considering the easiness for international trade and risk analysis; and
 - (f) without prejudice to international conventions to which Timor-Leste is a party, goods imported or exported postal by order through the international postal network which do not include personal correspondence;
 - (g) goods transported by express consignment operators; and
 - (h) in any other case, where different trade facilitation and risk considerations that may vary for different classes or kinds of goods or different classes of transactions

require alternative declaration, verification or release processes.

2. Such simplified declaration, verification and release processes may include, without limitation, use of verbal declarations, minimum data requirements and simplified forms, or use of a commercial document in place of the customs declaration.
3. The simplified procedure does not apply to goods arriving in the country in groups (so called LCL) and goods transported by road.

TITLE X CUSTOMS PROCEDURES

CHAPTER I (Release for Free Circulation)

Article 178 (Scope and Conditions)

1. The customs procedure of release for free circulation applies to foreign goods brought into the customs territory for private use or consumption or to be put on the domestic market.
2. The release of foreign goods for free circulation implies being subject to import duties and other charges due and the fulfilment of all formalities referred to in article 152 and following, as well as the application of all commercial policy measures under the law.
3. The goods in passengers' baggage, postal orders or express orders are subject to special provisions in this Code.

CHAPTER II (Temporary Importation)

Article 183 (Scope and Conditions)

1. The temporary importation procedure shall allow the use in the customs territory, with the total or partial suspension of payment of import duty and other charges as provided by the tax legislation in force and without their being subject to commercial policy measures, of foreign goods that are intended for re-export without having undergone any change except normal depreciation resulting from their use.
2. The situations and conditions under which the temporary importation procedure are prescribed by the Minister.
3. Release of such goods subject to the temporary importation procedure shall be granted against a mandatory provision of a guarantee to ensure payment of the amount of any import duty and other charges that would be due if the goods were declared for free circulation and compliance with customs formalities.

4. Customs may refuse to allow release of goods subject to the temporary importation procedure if it is not possible to ensure their identification when assessing the procedure.
5. This procedure implies the obligation to control after the fact by the customs authorities.

Article 186 (Temporary Importation Period)

1. Without prejudice to the special periods set in agreements, conventions or treaties to which Timor-Leste is a contracting party, the maximum period for the temporary importation of goods shall be 12 months.
2. Customs may extend the period at the request of the declarant or when they deem it appropriate but not more than a total period of 24 months from the date the goods are released under the temporary import procedure.
3. Customs will also establish a shorter period by request of the beneficiary of the procedure or when they deem convenient.

Article 188 (Assessment of the Procedure)

1. The assessment of temporary importation procedure is done with the re-export of the goods or its declaration for a different procedure.
2. According to the prescribed by the Director General and to such conditions and restrictions as he may define, the temporary importation procedure may be assessed when the goods are:
 - (a) declared for free circulation;
 - (b) placed in a customs warehouse on condition of subsequent export; or
 - (c) abandoned to the State.
3. The assessment of temporary importation procedure of consumed, destroyed or free distribution goods is done when any of these effects are verified and implies the payment of all import duties and other charges due on the customs declaration acceptance date for 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 exportation, or Customs is not able to verify the origin of the goods declared for re-export with those placed under the procedure, the procedure beneficiary shall be liable to the payment of the customs debt so incurred, added by the compensatory interests defined by law on the global

amount of the import duty and other charges due.

CHAPTER III (Customs Warehouse)

Article 110 (Definitions)

For the purposes of this Chapter, the following expressions shall have the following meanings:

- (a). Customs warehouse: an area under customs control authorized under Article 15 of this Code for storage of imported goods;
- (b). Authorised warehouse keeper: the person authorized under Article 15 of this Code to operate the customs warehouse;
- (c). Depositor: the declarant that places the goods under the customs warehouse procedure or the person or to whom the duties or obligations of the procedure have been transferred in accordance with under Article 112;
- (d). Control Customs: the customs office with jurisdiction over the customs warehouse.

Article 197 (Concept)

1, The customs warehousing procedure allows the storage of imported goods in a customs warehouse regardless of quantity, country of origin, provenance or destination, with the suspension of import duties and other charges or subject to commercial policy measures.

- 2. The goods which pose a risk and are likely to impact other goods or that require special facilities shall be only admitted purpose-built customs warehouses.
- 3. Customs shall designate the type of goods which can be admitted at private customs warehouses.

Article 200 (Transfer of Ownership)

1. The transfer of the ownership of goods under the customs warehouse procedure shall be allowed, subject to such conditions and restrictions as the Director General may prescribe,

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

Article 201 (Responsibility of the Warehouse Keeper)

1. The authorised warehouse keeper is responsible for -
 - (a) ensure that goods are not removed from the customs control while under the customs warehouse procedure;
 - (b) comply with the particular conditions set in the authorisation of concession;
 - (c) comply with the obligations under the customs laws resulting from the storage of the goods covered by the customs warehouse procedure.
2. The authorised depository shall be responsible for the payment of the duties and other charges relating to missing goods, namely by theft or robbery, without prejudice to the possible procedure for tax violation, under the law.
3. The director of the Control Customs shall order the undertaking of an inventory of stocks in the customs warehouse whenever he deems it necessary.
4. Stock taking is mandatory once a year, even at warehouses under customs control.
5. The person who removes goods from a warehouse before authorized by customs authorities is subject to an administrative penalty.
6. The holder of an authorization who fails to inform Customs the exact quantity of goods in a warehouse is subject to an administrative penalty.

Article 202 (Guarantee)

1. Customs authorities shall require the provision of a financial guarantee, by a deposit or bank guarantee to ensure the duties and other charges due for the goods subject to the custom warehouse procedure.
2. In determining the amount of guarantee required under Article 23 of this Code, the Director General shall take into consideration the average storage capacity, the fiscal charge, and the conditions of fiscal security of the facilities intended for warehousing.
3. The guarantee shall correspond to at least 50% of the customs duties and other charges due for the goods stored or to be stored on a quarterly basis, and it may be the object of adjustments by the Director on his own initiative or at the request of the authorized warehouse keeper, depending on the movement of goods occurred in the preceding quarter. In case of goods liable to excise tax, the guarantee shall be of 20% of the taxes paid in the preceding quarter or, in case of beginning of activity, of 30% of the

quarterly forecast of the taxes in question.

4. No guarantee shall be required where the authorized warehouse keeper is an entity of the Public Administration or is under the direct administration of the State and subject to presenting a payment commitment voucher (PCV).

5. In any circumstances, no isolated import may exceed the amount determined for the guarantee and the customs authorities shall be notified of this.

6. Where a single import or entry into a warehouse is of a value that is higher than the global guarantee given, the authorised warehouse keeper must notify customs in order for it either to increase or to forgo the limit of the guarantee.

Article 203 (Storage Period and Fees)

1. Without prejudice to the periods for perishable goods, the maximum period that goods may remain under the customs warehouse procedure shall be of twelve months, which period may be extended for two consecutive periods of six months each if justified.

2. Goods placed under the customs warehouse procedure shall be deemed abandoned to the State if the period set out in preceding paragraph is not observed.

3. The authorized depository shall inform Customs Control annually of the storage fees charged in customs warehouses and shall publish such information in a public place at the warehouse by the holder of the authorisation.

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

Article 204 (Authorised Operations)

1. Taking into account the conditions and restrictions as the Director of Customs Control sees fit to impose, the depositor shall be allowed to-

(a). examine the goods;

(b). take samples, against payment of import duty and other charges if entitled to;

(c). carry out such usual forms of handling as intended to preserve the goods during storage, as well as improve their appearance or marketable quality, or prepare them for distribution or resale.

2. The usual forms of handling shall be placed in a detailed list to be approved by the Minister, after proposal by the Director-General and the execution shall be authorised by

the Director of Customs Control who will set forth the conditions for their execution.

Article 205(Temporary Exit of Goods)

1. With the exception of goods liable to excise tax, and whenever circumstances so justify, goods under the customs warehousing procedure may be temporarily removed from the customs warehouse.
2. Permission to make temporary verification of goods may be granted in general in the authorisation, or on a case-by-case basis, upon prior written request addressed to the Director of Customs Control.
3. Temporary verifications, as well as the respective entries, shall be annotated in the stock records.
4. During their stay outside of the customs warehouse, the goods may undergo the usual forms of handling.

Article 206 (Transfer between Customs Warehouses)

1. Subject to provisions of Article 28, and without prejudice to the maximum period of storage set out in Article 203, and the transfer of goods being permitted between customs warehouses and the time is counted of their stay since the attribution of the procedure.
2. The conditions in which the goods are subject to customs warehouse procedure may circulate between different places, under the same authorisation, or to the facilities at another place without assessing the procedure, shall be established in the authorisation and shall follow the circulation document.

Article 207 (Evaluation of the Customs Value Applicable to the Customs Warehouse Procedure)

1. Without prejudice to the sanctions provided for in this Code, whenever as a result of the inventory referred to in paragraph (3) of Article 291 or at any other moment in which Customs detects situations susceptible to incurring a customs debt in relation to goods liable to the customs warehousing procedure, the value of such debt shall be calculated in accordance with Article 98, and the expenses resulting from the storage and conservation of the goods during their stay in the customs warehouse shall not be included in the customs value provided such costs are shown separately from the price actually paid or payable for the goods.

2. Where the goods have undergone usual forms of handling, the nature, the customs value, and the quantity to be taken into account in order to determine the import duties shall be those to be taken into account in case the goods had not undergone such forms of handling.

Article 208 (Obligations resulting from Storing Goods)

The authorised warehouse keeper or depositor, as the case may be, have the responsibility to comply with the obligations resulting from the storage of the goods in customs warehouses, namely:

- (a). ensure the good conservation of the goods;
- (b). ask for authorisation from control customs to undertake usual manipulations and temporary verifications, destroy any goods, or undertake prior examinations;
- (c). deliver to Customs Control the list of goods under the customs warehouse procedure that remain in the warehouse after expiration of the period set out in Article 203.

Article 209 (Waiver of the Procedure)

Subject to the fulfilment of conditions and the required formalities, the customs warehouse procedure is assessed when:

- (a). the release of the goods is granted for:
 - (i). free circulation; or
 - (ii). permanent exportation;
- (b) the goods are abandoned to the State.

CHAPTER IV (Customs Transit)

Article 231 (Internal Transit and External Transit)

1. The internal transit procedure allows the movement of national goods from one customs port to another, passing through the territory of a third country, without changing their customs status.
2. The external transit procedure allows the movement of foreign goods between two customs ports without such goods being subject to import duty and other charges, or to commercial policy measures where so provided by the tax legislation in force.

3. Except in the cases the Director General may otherwise authorize, foreign goods moving between two customs warehouses or customs ports, as well as goods declared for exportation are subject to the external transit procedure.
4. In case the transportation of goods under the external transit procedure is made by sea, the vessel may not suspend the navigation between the port of departure and the port of arrival.
5. Customs may set a mandatory itinerary in relation to road transports, as well as request the provision of a guarantee, set a time limit for assessing the transit procedure, or require customs seal, identification marks or fastenings to be applied.
6. Whenever they deem it necessary, Customs may determine that the goods subject to a transit procedure to be transported under customs escort.
7. The goods moved under a transit procedure will be accompanied by the respective copy of the unique administrative document (UAD).

Article 232 (Obligations of Declarant and Transporter)

1. The declarant of goods placed subject to the transit procedure is responsible for-
 - (a) presentation of the goods and the supply of information or requested presentation of documents at the customs port of destination within the prescribed time limit by Customs and the goods can only be moved through an itinerary defined by Customs and they cannot undergo any change or handling, and with customs seals, fasteners or identification marks intact;
 - (b) by the observance of the rules defined in the customs law relating to the procedure;
 - (c) unless otherwise provided for in the customs laws, provision of a guarantee in order to ensure payment of the amount of import duty or other charges which may be incurred in respect of the goods.
2. Whenever the goods are subject to the transit procedure and the required information and documents are made available at the customs port at the destination, according to customs law, the obligations by the declarant are deemed fulfilled and the transit procedure assessed.
3. The transporter who accepts goods moving subject to transit procedure is also responsible for presentation of the goods at the customs port of destination, by means of any approved itinerary by Customs, within the prescribed time limit and with customs seals,

fasteners or identification marks intact.

Article 233 (Assessment of the Procedure)

1. A transit procedure shall be assessed by Customs correctly when the respective copy of the unique customs document was returned to the departure Customs, duly certified, by the arrival Customs.
2. The arrival Customs referred to in the preceding paragraph is tasked with the assessment.
3. Without prejudice to the penalties provided in this Code, the non-assessment of the transit procedure shall be registered by notification to the Director-General, who will have the guarantee to be applied immediately and prepare the report notice of the tax violation.

CHAPTER V (Exportation)

Section I (Outright Exportation)

Article 234 (Scope and Definition)

1. The outright export customs procedure is the departure of goods by any means from the customs territory by a customs declaration.
2. The preceding paragraph is not applicable to goods departing Timor-Leste under a customs procedure for-
 - (a) transshipment;
 - (b) external transit, where foreign goods only pass through the customs territory;
 - (c). internal transit, where national goods leave the customs territory temporarily;
 - (c) outward processing, or
 - (d) temporary export.
- 3 The provisions of this Code which govern the customs declaration and the declarant at import apply to the outright export.
- 4 The customs declaration for the outright export procedure shall be submitted to customs at departure.
- 5 The goods declared for export are subject to control by the custom authorities from the moment of acceptance until the effective departure of the conveyance.
- 6 The goods are subject to payment of export duties whenever they fall due.

7. After a favourable decision by a Minister of a relevant area, the Minister may grant an exemption for the duties in the preceding paragraph.
8. Where the exportation of the goods declared for export is cancelled, Customs shall be notified by a written exporter declaration. and request invalidation of the declaration in accordance with Article 96.
9. The exporter who fails to notify Customs of the export cancellation under the preceding paragraph shall be subject to an administrative fine.

Section II (Temporary Exportation)

Article 235 (Scope and Definition)

1. The temporary exportation procedure shall allow national goods to be exported and returned to the customs territory with relief from import duty and tax on their re-importation, where so provided by the tax legislation in force.
2. The goods must be re-imported in their unchanged status without having undergone any change, except normal depreciation from their use.

Article 236 (Time Limit for Re-Importation)

The re-importation of goods temporarily exported shall take place within twelve months, to be extended only in cases duly justified.

Article 237 (Conversion of Temporary Exportation into Outright Exportation)

At the request of the interested party, Customs may allow that the temporary exportation is transformed into outright exportation, provided that all applicable conditions and formalities are met.

CHAPTER VI (Processing)

Section I (General)

Article 129 (Definitions)

1. For purposes of this Chapter,
 - (a) “processing operations” shall mean
 - (i) the processing of goods;
 - (ii) the assembly, the reunion, and the adaptation of goods to other goods;

- (iii) the manufacture of goods;
 - (iv) the repair of goods, including their restoration and upgrading.
 - (b) “processed products” shall mean goods obtained after one or more processing operations.
 - (c) a “processing procedure” shall mean
 - (i) the drawback procedure,
 - (ii) the inward processing procedure, or
 - (iii) the outward processing procedure.
 - (d) “equivalent goods” shall consist of national goods which are used in processing operations instead of foreign goods placed under a processing procedure.
 - (e) The “yield rate” is the quantity or percentage of processed products obtained from the processing operations to which a given quantity of goods has been subjected.
2. Except as the Director General may prescribe, equivalent goods shall have the same tariff classification, commercial quality, and technical characteristics as the goods which they are replacing.
3. The yield rate shall be set by Customs when authorising use of a processing procedure based, to the extent possible, on the actual circumstances in which processing operations are, or are to be, carried out.

Article 239 (Requisites for Use of Processing Procedures)

1. An authorisation issued by the Director General following a written and justified request from the person concerned shall be required for the use of a processing procedure.
2. The applicant for an authorisation required under the preceding paragraph of this Article the applicant must be a person established in Timor-Leste who carries out the processing operations or who arranges for them to be carried out.
3. Grant of an authorisation shall be subject to:
 - (a) registration with the registry of authorised operators;
 - (b) compulsory registration and regularisation of fiscal obligations at the Timor-Leste Revenue Service;
 - (c) provision of a guarantee in accordance with the terms to be determined by

Customs;

(d) the existence of storage and control conditions for the goods to the satisfaction of Customs.

4. Use of a processing procedure shall not be authorized:

(a) where it is not possible to identify the goods placed under the respective procedures in the processed products;

(b) when, following prior consultation with the supervisory bodies, it becomes clear that customs supervision of the intended processing operations is not feasible, under technically or economically satisfactory conditions; or

(c) the Minister, determines that the essential interests of Timor-Leste producers would be adversely affected by authorization of the procedure.

Article 240 (Contents of the Authorisation)

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

(a) the procedures that will allow for the identification of the goods in the processed products;

(b) the period within which the procedure shall be discharged or a claim for drawback made, which periods may be extended on justified grounds; and

(c) the yield rate.

2. In the case of the inward processing procedure and the drawback procedures the Director General shall authorize the following, provided that the proper conduct of the procedure is ensured:

(a) the use of equivalent goods; and

(b) the exportation of transformed products obtained from equivalent goods before the importation of the foreign goods they are replacing.

Article 241 (Non Compliance of Customs Procedure)

1. Whenever Customs notices any infringement of any conditions or clauses inherent in a customs procedure under this Chapter, a proposal is to the Director General to cancel the authorisation if applicable.

2. without prejudice to the provisions of this Code on customs decisions and rights of appeal, in the cases where the recommendation is accepted by the Director General, Customs shall:
 - a) deny the claim for repayment of import duties and other charges under the drawback procedure,
 - b) collect import duty and other charges on goods placed under the inward processing procedure, or
 - c) refuse in total or in part relief from import duties and other charges under the outward processing procedure, as the case may be.

Section II (Drawback)

Article 242 (General Principles)

1. The drawback procedure allows the repayment of import duties and taxes paid on foreign goods released for free circulation if exported from the customs territory in the form of processed products within the period set out in the authorization or as prescribed.
2. The duties and taxes on goods under the drawback procedure will be object of a surety by deposit or bank-issued guarantee.
3. The drawback procedure can only be used by authorized operators and with preceding authorization of customs officials.
4. The declaration for release for free circulation of foreign goods referred to under this paragraph shall indicate that the drawback procedure is being used.
5. Goods declared for the drawback procedure may not be liable to commercial policy measures.

Article 243 (Control Measures)

Goods declared under the drawback procedure should be the object of control measures in the importation in order to allow Customs to certify, at the moment of the exportation of the processed products, that they are the ones actually imported.

Section III (Inward Processing)

Article 244 (General Principles)

The inward processing procedure shall allow foreign goods to be imported for use in inward processing operations with the suspension of import duty and other charges, where so

provided by the tax legislation in force, or the application of commercial policy measures.

Article 246 (Procedure Collection)

1. The inward processing procedure is collected when all processed products derived from the processing operations performed on goods subject to the procedure, including valuable waste, are exported, subject to any another customs procedure, abandoned to the State, or destroyed under customs supervision.
2. Upon request of the authorized person, the Director General may authorize the re-exportation of goods subject to the inward processing procedure in the same state as imported with discharge of the collection procedure with respect to such goods.

Article 247 (Import Duty and Tax Calculation Rules)

Where a customs debt is incurred with respect to goods subject to the inward processing procedure or processed products as a result of their declaration for free circulation or otherwise, the amount of such debt corresponding to import duty and tax due 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 placed under the inward-processing procedure at the time of acceptance of the goods declaration relating to those goods.

Section V (Outward Processing)

Article 248 (Overview)

1. The outward processing procedure shall allow national goods to be exported temporarily from the customs territory in order to undergo processing operations and be re-imported within the period set out in the authorization or as prescribed in the form of compensated products with total or partial relief from import duty and tax, under the tax legislation in force.
2. The outward processing procedure is not allowed to national goods the export of which gives rise to repayment of import duties and other charges.

Article 250 (Relief from Import Duty and Tax)

The total or partial relief from import duty and other charges provided for in Article 248 entails the deduction of the amount of export and import duties which would be applicable on the same date to the goods being imported from the country where they were subject to inward processing.

Article 251(Total Relief from Import Duty and Tax)

Where the repair of a temporarily exported good under outward processing regime took place free of charge because of a contractual obligation arising from a guarantee or because of a manufacturing defect, the re-importation of the compensated product shall take place with total relief from import duty and tax.

Article 252 (Procedure Collection)

1. The outward processing procedure is collected when all processed products derived from the processing operations performed on goods subject to the procedure, are subject to any another customs procedure, abandoned to the State, or destroyed under customs supervision.
2. Upon request of the authorized person, the Director General should authorize-
 - (a). the procedure collection of the outward processing procedure by subjecting the goods to a temporary export procedure, where the goods are returned in the same states as exported; or
 - (b). the procedure collection of the outward processing procedure by subjecting the of the goods to the export procedure.

CHAPTER VII (Free Zones and Free Warehouses)

Article 255 (Concept)

1. Free zones and free warehouses shall be parts of the customs territory or places therein in which foreign goods are considered as though they have not been introduced into the customs territory.
2. The goods referred to in the preceding paragraph may undergo all kinds of industrial transformation, manufacturing process, or manipulation.
3. Goods stored in free zones and free warehouses referred to in this paragraph shall be subject to customs control.
4. The establishment of free zones and free warehouses shall be the responsibility of the Minister who shall determine the respective conditions, namely.
 - (a) The geographical implantation and delimitation of the site;

- (b) The type of fence surrounding the site;
 - (c) The types of authorised activities;
 - (d) The regime of fiscal guarantees to be provided by the grantees and the applicable administrative penalties.
5. The construction of buildings in a free zone is subject to preceding authorization by customs officials.
- 5.

Article 261 (Regime Applicable to Goods intended for Consumption)

1. Goods introduced into a free zone or free warehouse from the customs territory to be consumed in a manufacturing process, process of industrial transformation, or manipulation, are relieved from customs and other charges, and are object of an export customs declaration.
2. The other goods, when consumed or destroyed, are subject to payment of the duties and other charges, and the customs procedure of release for free circulation shall apply.
3. Economic operators established in the free zones or free warehouses shall be obliged to own stock records approved by Customs.
4. All goods entered into the premises of the free zone or the free warehouse shall be immediately registered in the stock records in order to allow Customs to control and supervise them.
5. The stock records must also contain all the movements the goods are subjected to.
6. The economic operator must make available to Customs the goods and the elements of the stock records in order to allow a complete inspection.
7. At least once a year, customs officials, will inspect the existing facilities and shall do so when deemed necessary.

Article 263 (Removal of Goods from Free Zones or Free Warehouses)

1. Goods leaving a free zone or free warehouse shall be declared:
 - (a) for outright exportation;

- (b) for release for free circulation.
- 2. Customs shall take all necessary measures in order to ensure that the provisions to be applied in relation to outright exportation or release for free circulation have been complied with.

CHAPTER VIII (Transshipment)

Article 246 (Transshipment of Goods)

- 1. Foreign goods under the transshipment procedure may be transferred from an importing vessel or aircraft to an exporting vessel or aircraft where they will be exported within the same customs port without payment of import duty and tax or export duty and tax, where so provided by the tax legislation in force, whenever provided in the applicable law or without being subject to commercial policy measures.
- 2. Subject to such restrictions and conditions as the Minister may prescribe, an advance cargo declaration in respect of goods transhipped may serve as the customs declaration for transshipment.
- 3. The Director General is responsible to prescribe:
 - (a). the customs ports where goods may be transhipped; and
 - (b). the maximum time period allowed after arrival for the export of goods that are subject to the transshipment procedure.
- 4. The customs port of the transshipment shall control the embarking and disembarking operations of the goods and shall keep them under permanent supervision.

Article 265 (Obligations of the Importer on transshipment)

The declarant who subjects the goods under the transshipment procedure shall be responsible for:

- (a). securing the goods off-loaded from the importing vessel or aircraft in which they were transported in such places within the customs port approved by the Director General for that purpose;
- (b). compliance with any measures taken by Customs to ensure the identification of the goods;
- (c). loading the goods on the exporting vessel or aircraft to where the goods will be exported within the prescribed time limit,

- (d). completion of required formalities for declaration and release of the goods, and
- (e). observance of rules as may be prescribed relating to the procedure.

Article 266 (Procedure Collection)

The declarant obligations are deemed fulfilled when the goods are loaded onto the vessel or aircraft to transport outside Timor-Leste and the collection for the procedure commences.

CHAPTER IX (Stores)

Article 267 (On Board Stores of Arriving Conveyances)

1. Taking into account the conditions and restrictions as may be prescribed and the completion of required formalities for declaration and release, goods carried as on board stores on a conveyance arriving in Timor-Leste shall be exempt from import duty and other charges, where so provided by the tax legislation in force that such stores-

- (a). shall not be used before the departure of the conveyance from its last port or airport of departure in Timor-Leste otherwise than for the use of the passengers or crew, or for the service, of the conveyance; and

- (b). shall not be unshipped or unloaded.

2. Customs may require the person in charge of the conveyance to take appropriate measures to prevent any unauthorized use of the stores including sealing of the stores, when necessary.

Article 268 (Other Destination of Stores)

Notwithstanding the preceding Article, goods carried as stores on conveyances arriving from a place outside Timor-Leste and duly declared on arrival may, by authorization of Customs and the such conditions and restrictions as may be prescribed, and without the payment of import or export customs duties and other charges, be –

- (a). unloaded for temporary custody in a secure place approved by Customs and reshipped on the same conveyance for use while en route to a certain destination outside Timor-Leste;

- (b). unloaded for immediate transfer at the same place to another conveyance of the same route for use while en route to a certain destination outside Timor-Leste

Article 265 (Supply of Stores Exempt from Export Duty and Tax)

1. National goods required as provisions and transported aboard as stores on any conveyance proceeding to any foreign port or airport may be exported free of export duty and tax in such quantities as the Customs may determine having regard to the size of the conveyance, the number of passengers and crew and the length of the voyage or journey on which the conveyance.
2. Goods described in the preceding paragraph 1 shall only be consumed after the clearance for departure is given.

TITLE XI DESTRUCTION AND ABANDONMENT; CUSTOMS DISPOSITION OF GOODS

CHAPTER I (Abandonment and Destruction under Customs Supervision)

Article 271 (General Principles)

1. Foreign goods brought into the customs port, whether declared for a customs system, may with prior permission of Customs be:
 - (a) abandoned to the State;
 - (b) destroyed under customs officials supervision.
2. The abandonment referred to in the preceding paragraph is authorized by the Custom Director General after having assessed the economic or fiscal interest on such goods.
3. The Director General shall determine the place for the storage of the goods referred to in the preceding paragraph and may, in case of apprehension, appoint a trusted depositary.
4. When the owner or declarant of the goods or, where applicable, the person who has custody of the goods intends to abandon or destroy the goods, the procedure shall be requested in writing.
5. Customs shall supervise the destruction, and the owner of the goods or their representative must be present.
6. A respective record of the destruction shall be prepared, which shall be signed by the owner of the goods or their representative, the customs officer appointed, and the entity who destroyed the goods, whichever this is the case.
7. The record of destruction shall contain the commercial identification and the quantity of the goods, and if destruction resulted in any waste or scrap that may be declared

for another customs use.

8. The details contained in the record shall determine the taxation to take place, in the cases provided for in the final part of the preceding paragraph.

9. The State shall not bear the costs of destruction or abandonment and the owner of the goods or declarant will be responsible for all costs incurred by Customs for the destruction and other disposal of the goods.

10. The amounts collected from the sale of the goods are considered State revenue after the provision of Article 276 is applied.

CHAPTER II (Customs Disposition of Abandoned or Forfeited Goods)

Article 1272 (Disposal of Goods)

The following goods are considered State property and should be transferred to the relevant department in charge of the management and disposal of State property to be disposed in accordance with the law:

- (a) deemed abandoned to the State under Article 142 or Article 203;
 - (b) voluntarily abandoned to the State pursuant to Article 271; or
 - (c) declared forfeited to the State by the Director General pursuant to Article 368 or a competent court in connection with the commission of a crime or a customs offense;
 - (d) the goods thrown from the air or sea;
 - (e) goods from salvage in case of shipwreck, if the ship has been abandoned or when the captain requests its sale under the applicable international conventions.
2. Amounts in cash, precious gems and titles of credit found in the spoils will not be auctioned and shall be transferred to the competent State departments and will be returned to the owner after the payment of the relevant expenses.
3. They may be sold at a public auction, by authorization of the Minister, regardless of price, after ten years of date of the deposit if not claimed by the interested parties and shall be preceded by 90-day public notices.
4. The goods under the conditions in this article, as well as having been object of express abandonment are put for sale when it is recognized that their use is not convenient for the State or for public help or charity. This does not apply to spoils.

Article 276 (Application of Sale Proceeds)

1. The proceeds from the disposal of goods provided in Article 272 shall be applied subsequently:

- (a). to pay the expenses of the sale;
- (b). to pay the import duty and tax and administrative penalties due in respect of such goods, if any;
- (c). to pay the freight or other charges, if any, payable in respect of the goods, if notice of such charges has been given to the person holding the goods in custody;
- (d). to pay the charges due to the trusted depositary holding such goods in custody, if any.

2. Except as otherwise provided by law, the balance of any sale proceeds remaining after the payments under paragraph (1) in this Article shall be deposited to the national revenues.

TITLE XII INCURRENCE OF A CUSTOMS DEBT

CHAPTER I On Importation

Article 306(Constitutive Fact)

1. The constitutive fact of a customs debt consists of importation of goods liable to import duty and other charges:

- (a) the release of goods for free circulation;
- (b). the placement of such goods under any other customs procedure where, under the tax legislation in force, does not suspend or exempt such goods from payment of such duty and other charges;
- (c) the introduction of such goods into the customs territory, directly or from a free warehouse, or a free zone;
- (d) the unlawful removal of such goods from customs supervision;
- (e) the non-fulfilment of the obligations arising from the temporary storage of such goods or from the use of the customs procedure to which they are subject;

- (f) the consumption or use, in a free zone or a free warehouse, of goods under conditions other than those laid down by the customs laws.

2. The goods introduced in the customs ports depending on the allocated customs procedure are subject to the payment of duty rights, stamp duty, tax on printed materials, general fees and other charges according to customs tariff, customs fees table and other applicable laws.

Article 155 (Moment of the Incurrence of a Customs Debt)

The customs debt on importation in the cases provided for in Article 154 shall be incurred:

- (a) In the cases laid down in subparagraph (a) or (b) at the time of acceptance of the customs declaration;
- (b) In the cases provided for in subparagraph (c) at the time of the unlawful introduction. Where it is not possible to determine the unlawful introduction, the debt shall be incurred at the time when Customs discovers the unlawful introduction;
- (c) In the cases provided for in subparagraphs (d), (e), and (f), the debt shall be considered incurred at the time of the removal of the goods from customs supervision, at the time of the non-fulfilment of the obligations, or at the time when the goods are consumed or used.

Article 308 (Chargeable Person of Customs Debt)

1. Where the debt is incurred in accordance with subparagraph (a) or (b) of Article 306, the debtor is the declarant.
2. In the cases provided for in subparagraph (c) of Article 306, the debtors shall be:
 - (a) the person who introduced the goods unlawfully; and
 - (b) any person who, being aware of the unlawful introduction of the goods, has participated in such operation or acquired the goods unlawfully introduced.
3. In the cases provided for in subparagraphs (d) of Article 154, the debtors shall be:
 - (a) the person who removed the goods from customs supervision; and
 - (b) any person who participated in such removal or acquired or held the goods in question and were aware that the goods were being or had been removed from customs supervision;

4. In the cases provided for in subparagraph (e) of Article 306, the debtor shall be the person who is required, according to the circumstances, either to fulfil the obligations arising, in respect of goods liable to customs duty, from their temporary storage or from the use of the customs procedure under which they have been placed, or to comply with the conditions governing the placing of the goods under that procedure.
5. In the cases provided for in subparagraph (f) of Article 306, the debtor is the person who consumed or used the goods, as well as the person or persons who, being aware of the respective regulation in force, have participated in the consumption or use of the goods.
6. In case of disappearance of goods from a free zone or free warehouse without it being possible for Customs to be able to identify the person or persons who consumed or used them, the person with the obligation to pay shall be the last possible person that Customs succeeds in identifying as holding or possessing such goods.

Article 309 (Place of Incurrence of Customs Debt)

The customs debt shall be considered incurred at the place where the facts originating its incurrence took place or, where it is not possible to determine such place, the place where customs officials determine that the goods are in a position in which a customs debt is incurred shall be deemed as the place of incurrence.

CHAPTER II Customs Debt on Exportation

Article 310 Customs debt Constitutive Fact)

It is a constitutive fact of a customs debt on exportation of goods liable to export duty and other charges:

- (a) the exportation from the customs territory of goods declared for that customs procedure;
- (b) the removal from the customs territory of goods without a customs declaration;
- (c) the removal from the customs territory of goods without observing the conditions that exempt the same goods, entirely or partially, from export duties.

Article 311 (Time of Custom Debt Incurrence)

1. In the cases provided for in subparagraph (a) of the preceding Article, the customs debt is incurred at the time when such customs declaration is accepted;
2. In the cases provided for in subparagraph (b) of the preceding Article, the debt is

incurred at the time of the effective removal of the goods from the customs territory;

3. In the cases provided for in subparagraph (c) of the preceding Article, the debt is incurred at the time when the goods reach a destination other than the one which would benefit from the total or partial relief from export duties, or at the time of the expiry date of the time limit for producing evidence that the conditions entitling the goods to such relief have been fulfilled.

Article 312 (Chargeable Person of Customs Debt)

1. In the cases provided for in subparagraphs (a) and (c) of Article 310, the debtor shall be the declarant.

2. In the cases provided for in subparagraph (b) of Article 310 the debtor shall be the person or who cooperated with them for the removal of such goods who knew or who was aware of the need to declare the goods for export facilitate its departure from the custom territory without fulfilling this formality,

Article 311 (Place where the Customs Debt is incurred)

Whenever goods were removed from the customs territory and it is not otherwise possible to determine the time when the customs debt was incurred, the customs debt is 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 Customs Debts)

1. A customs debt is incurred even if it relates to goods which are prohibited or limited by law to import into or export from Timor-Leste of any kind, except as provided in the next paragraph.

2. A customs debt is not incurred on the unlawful introduction of goods that cannot be commercialised is in question. Nevertheless, such debt shall be calculated whenever the same debt may serve as the basis for the application of penalties in criminal proceeding.

SECTION II (Settlement, Time and Modes of Payment)

Article 163 (Register of Settlement)

1. Without prejudice to paragraph 3 of Article 162, the settlement of a customs debt

shall be the responsibility of Customs, and it shall take place as soon as Customs are in the possession tax elements applicable to the goods at the time the relevant customs debt is incurred.

2. The amount of import duty and other charges or export duty and other charges calculated by Customs shall be promptly entered into the Customs accounting records in the form as the Minister shall determine.

3. The declarant may have it to be inserted in the customs declaration the amount of duties and other charges which it considers due and payable.

4. The provision in the preceding paragraph does not bind the customs officials.

5. The amount of custom duties and other charges, under Article 162, shall be object of an accounting entry provided therein.

6. Where it is not possible to determine precisely when the customs debt was incurred, the time to be considered for settlement is that the customs officials verify that these goods are in a position to originate a customs debt.

7. When the declarant is liable, the moment when the debt is incurred or its settlement is subject to a postponement, interest of 4% will be charged.

Article 316 (Date for Determination of Rate of Duties, Customs Value and Exchange Rate)

1. The amount of duties and other charges on imported or exported goods shall be calculated on the basis of the rate of exchange and the tariff classification, rules of origin, and duty rates and other charges applicable to such goods -

(a). on the date the customs declaration for the goods is accepted, and

(b). in any other case, on the date of payment of duty and other charges.

2. If the customs declaration is submitted prior to arrival of the goods pursuant to paragraph 2 of Article 157, the relevant date for the purpose of this Article shall be the date of the notification of arrival of the goods.

Article 165 (Calculation Error)

Whenever Customs detects a calculation error of in the customs debt, resulting in overpayment or underpayment, the entry in the accounts shall be the subject of rectification within two workings days t from the date of the notification of the error to the declarant.

Article 318 (Communication to the Debtor)

1. The amount of duties and other charges calculated after the acceptance of the declaration shall be notified to the debtor as soon as the calculation entry is final.
2. Whenever the amount of duties and other charges payable were referred to in the customs declaration, as an indication, the customs officials may determine that the notification referred to in the preceding paragraph is sent only when the amount does not correspond to the amount determined.
3. In the cases provided for in paragraph 3 of Article 162, the notification of release of goods shall be equivalent to the communication to the debtor of the customs debt.
4. Whenever a control a posteriori originates the calculation of a customs debt of an amount different to the one payable by error, fault or omission of the declarant, the notification to the debtor cannot be made after three years from the date when the customs debt is incurred.

Article 319 (Notification Period)

1. No notification for the payment of a customs debt shall be made against the debtor after the period of five years to be counted from the date when the customs debt was incurred or 3 years from the date when the calculation was entered.
2. Where the customs debt is the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the period set out in paragraph (1) shall be extended to 10 years.

Article 320 (Payment Period)

1. Payment of the customs debt is due not later than ten days following the date the amount is communicated to the debtor.
2. If the person liable for payment is entitled to deferral of the payment under the next Article, payment is due within the period specified in that Article.
3. Where the legal time limits for payment are exceeded, the unpaid amount shall be considered arrears and shall bear interest from the date the debt is incurred.
4. The interests on arrears shall be calculated per full calendar day, and the day of the communication to the debtor as well as the day of the payment of the customs debt shall not be counted.

5. The amount of the interest on arrears payable shall be calculated on the basis of the rate of 3% for every month or fraction of a month over the total amount of the customs debt.

Article 321 (Deferral of Payment)

1. The Minister may authorize a person, upon request and provision of a sufficient guarantee under Article 323, to defer the payment of import duty and other charges or export duty and other charges payable with respect to goods released to the person, but not to exceed a minimum of 14 days to the maximum of 30 days from date of such release.
2. Use of deferral of payment under this Article is subject to a demonstrated record of prompt compliance with payment obligations under the customs laws and tax laws of Timor-Leste.

Article 322 (Form and Place of Payment)

The payment of a customs debt may be made in cash or by certified cheque to the order of the Treasury at the customs port where the declaration has been registered or as otherwise specified in the communication to the debtor.

CHAPTER IV Guarantee of the Customs Debt

Article 323 (Requirement of Guarantee)

1. Whenever during the course of applying customs laws, Customs requires the provision of a guarantee in order to ensure the payment of a customs debt, such guarantee shall be provided by the debtor.
2. Where the debtor is a service of Public Administration, a bank guarantee may be replaced by a commitment to payment voucher (CPV).
3. The list of services of the Public Administration authorised to use a commitment to payment voucher shall be approved by the Minister.

Article 324 (Moment of the Constitution of the Guarantee)

1. A guarantee may be required at the time of the declaration of the goods for the customs procedure.
2. The amount of the guarantee to be provided shall be equal to the amount of the debt incurred or to be incurred.

3. Where the amount of the debt to be incurred has not been set, Customs shall require the provision of a guarantee for the highest amount they calculate as being reasonably likely to be incurred.

Article 325 (Forms Guarantee)

Except as otherwise provided by the customs laws, the guarantee may be provided in the form of cash, undertaking by a guarantor as provided in the next paragraph, including a bank guarantee, as a fidelity insurance or mortgage, or in any other form acceptable to Customs, taking into consideration the intended objective.

Article 326 (Undertaking of Surety)

1. Where the form of guarantee is a surety, the guarantor shall have to undertake himself in writing to be held jointly and severally liable for payment of the amount guaranteed at the first request to do so.
2. Customs may refuse the proposed guarantor when they consider that the proposed guarantor does not have sufficient credibility.
3. Whenever Customs determines that the guarantee provided does not cover or has ceased to cover safely and entirely the payment of the customs debt within the time limits set, they shall require the debtor or his guarantor to provide a supplementary guarantee.
4. The guarantee shall not be cancelled until the respective customs debt has been extinct.
5. The guarantor shall be jointly and severally with the debtor, and Customs may sue the principal debtor, the guarantor, or both simultaneously.

CHAPTER V (Extinction of Customs Debt)

Article 327 (Grounds)

The customs debt shall be extinguished:

- (a). by the payment of the amount due;
- (b). by deferred payment;
- (c). by the invalidation of the customs declaration, in accordance with the in Article 161;
- (d). when the goods are irreversibly lost following an act of God or *force majeure*, or are forfeited or abandoned to the State;

- (e). by the destruction of the goods, under customs control.
2. The time limit of the customs debt shall be ten years, subject to any suspension or interruption provided by law.

TITLE XIII REFUND AND WAIVER OF CUSTOMS DUTIES, TAXES AND FEES

Article 328 (General Provisions)

1. The refund or waiver of payment of duties and other charges occurs when is proved that, at the time of payment, the respective amount was not legally due or that the settlement entry was incorrectly done.
2. No refund or waiver of payment shall be granted under this Article when the facts which led to the payment of an amount which was not legally owed was the result of deliberate action by the person concerned.
3. The time limit for declarant to claim the refund of the duties and other charges shall be three years from the date Customs notified the debtor of the amount due.
4. Where Customs themselves determine within the period referred to in the preceding paragraph that a payment described in paragraph (1) of this Article has been incorrectly made, Customs shall refund the respective amount.
5. Refund of the customs duties and other charges shall be made by Customs within one year from the date of receipt of the request for refund duly justified and provided it is accepted by Customs.
6. The decision by Customs in the framework of the refund process shall be communicated in writing to the declarant.
7. The refund by customs officials of the amount of import duties due does not imply any payment of interest by the officials.

Article 329 (Invalidated Declarations)

Duties and other charges shall be refunded where a customs declaration is invalidated and the duties have been paid. Refund shall be made upon Customs decision to invalidate the customs declaration.

Article 330 (Goods Not Conforming to Commercial Requirements)

1. The total amount of duties and other charges paid by goods less 1% is refunded upon application by the importer if such goods are exported or destroyed by Customs within one (1) year from the date the customs debt was registered in the following cases:

- (a). do not conform to sample or specifications,
- (b). were shipped without the consent of the consignee,
- (c). are determined to be defective as of the time of importation,

2. The removal of the goods by the importer determines the non-application of the refund procedure or the waiver of payment of import duties to which this Article refers.

3. Regarding the preceding paragraph, the goods that cannot be used by the importer at the moment and place of import are excepted.

Article 331 (Error in the Refund)

- 1. Where Customs determines that there was an error in the refund of the duties or other charges, the debt initially incurred shall be payable.
- 2. The period for the notification claiming the debt shall be three years to be counted from the date the error of the declarant is detected.
- 3. The error referred to in the preceding paragraph shall be notified to the declarant by customs within thirty days after the date of its detection.

TITLE XIV Enforcement of Payment; Customs Execution

Article 332 (Object of Execution)

- 1. The customs execution process shall cover the charging of the following debts:
 - (a). Duties and taxes and other charges;
 - (b). Fines, and if any, administrative penalties imposed for violations of customs laws.

Article 181 (Territorial Jurisdiction)

The Customs of the domicile or of the head office of the debtor, the status of the goods or settlement shall have jurisdiction for execution except if it a customs fine, and, where this is the case, other financial sanctions, in which case the customs port where the process is taking place shall have jurisdiction.

TITLE XV CUSTOMS OFFENCES

CHAPTER I (General Provisions)

Article 334 (Scope of Application)

1. This Title apply to violations to the regulatory norms of customs export and import activities which are not considered an offense, including the suspended custom procedures and fiscal benefits.
2. The law will define which customs offenses and the relevant legal procedure.
3. This Title is, irrespective of the offender's nationality, applicable to acts committed in the customs territory and, except as otherwise provided, to those committed outside the customs territory where the reasonably foreseeable result will have effect.

Article 183 (Joinder of Violations)

1. If the same illicit conduct constitutes both a criminal offence and a tax and customs misdemeanour the agent is punished for a crime, without prejudice of the ancillary penalties for a misdemeanour.
2. The facts which are qualified, on the whole or in part, as tax and customs violations for more than one law are punished by the law which imposes a harsher penalty.
- 3.

Article 338 (Acting on behalf of Another Person)

1. It is subject to the enforcement of the penalties related to violations of the customs rules a person who wilfully as head of a collective person, company or a *de facto* association or in legal representation or voluntarily for a third party, even when the respective kind of violation requires:
 - a) certain personal elements and these can be verified only when the represented is present;
 - b) the violator acts in their own interest and the representative acts in the represented person's interest.
2. The inefficacy of the act that is grounds for representation does not prevent the application of the preceding paragraph.
3. The representative is not responsible if they prove that:
 - a) he was not part of the illicit act by the represented or a third party;

- b) not having participated in the illicit act, mas being aware of its practice, notified Customs about it;
- c) act with diligence in all moments of the customs procedures.

Article 339 (Liability of Legal Persons)

1. A legal person or associations of persons are liable for customs offences when committed by its corporate bodies, managers, administrators or representatives, on their own behalf or in the corporate interest.
2. This liability shall be exonerated where the offender has acted against express orders or instructions issued by the legal person and similar.
3. The liability of the entities referred to under paragraph 1 in this Article shall not preclude the individual liability of the offenders.
4. Where the administrative penalty is imposed on a legal person and similar, its corporate assets shall be liable for such penalty and, in the absence or insufficiency thereof, the assets of each of the associates shall be jointly liable.
5. If a penalty is enforced on an entity with no legal capacity, the property will respond for it, and if not present or lacking, jointly by the property of each member.

Article 340 (Liability to Pay an Administrative Penalty)

1. Employers of agents who have committed customs offences are jointly liable to pay an amount equal to that of the administrative penalty applicable to employees, except where necessary action is proved to have been taken in order to make them comply with the law.
2. They shall be jointly liable, that is, both the employer and the employee owe the totality of the amount to be paid for customs duties and other charges due.
3. The provisions of the preceding paragraphs apply to parents and legal representatives of minors under general law or mentally incapacitated persons in connection with any offence committed by the latter.
4. The provisions of paragraphs 1 and 2 of this article shall apply to natural persons and legal persons and associations of persons.
5. Where the legal person or the association of persons concerned no longer exists at

the time when action is brought forward, the individuals who were members of such legal person or association of persons shall be jointly liable for administrative penalties and customs duties and other charges due.

Article 341 (Treatment of Administrative Penalty as Customs Duty)

Except as otherwise provided under this Title, Articles 315 to 322 apply equally with respect to any administrative penalty provided for under this Title, as it were is a customs duty regarding its procedure.

Article 343 (Payment in Instalments)

1. After considering the particular circumstances of each case and the safeguard of the public interest, the Minister may authorise the payment of an administrative penalty in monthly instalments in a number that shall not exceed 12, which minimal amount shall not be less than USD 100 for persons and USD 1,000 for collective persons
2. Authorisation for payment in instalments shall depend on the provision of a bank guarantee, cash deposit or surety or mortgage, to be provided by the applicant equivalent to the total amount of the outstanding penalty.
3. Payment in instalments may be applied for at any stage of the process and, once deferred, such application shall suspend the execution of the assets owned by the debtor.
4. The amount in instalments does not include interest which will be payable regarding the debt included in each instalment until the final payment, which will be included in the payment slip given by the employee for payment together with the instalment.
5. Failure to pay any of the instalments implies the expiry of the remaining ones, if, within 10 (ten) days from the notification for payment, the debtor does not pay the outstanding instalments and the fiscal execution will be enforced.
6. The guarantee shall be withdrawn when the total amount of the administrative penalty has been settled.
7. The entity which has provided the guarantee will be notified to, within 30 (thirty) days to pay the remaining debt up to the amount under penalty of execution in the procedure.

Article 345 (Determination of Administrative Penalty Amounts – aggravation and mitigation)

1. The amount of an administrative penalty shall be determined based on the gravity of

the offence and the degree of culpability of the person concerned and, subject to the maximum administrative penalty amounts provided under this Title, exceeding, whenever possible the economic benefit that the person concerned obtained from the commission of such offence.

2. The maximum administrative penalty amounts defined in Chapter II of this Title shall be adjusted as follows-

- (a). where the goods that are the object of a customs offence are goods the importation of exportation of which is prohibited by law or are subject to excise tax, the maximum amount of the administrative penalty applicable shall be doubled;
- (b). where the administrative penalty is imposed on a legal person or association of persons, the maximum amount of the administrative penalty applicable shall be doubled;
- (c). where the goods that are the object of a customs offence are goods the importation of exportation of which is prohibited by law or are subject to excise tax and the administrative penalty is imposed on a legal person or association of persons, the maximum amount of the administrative penalty applicable shall be quadrupled;
- (d). where the goods that are the object of a customs offence consist, in whole or in part, of items of a considerable historical or artistic interest whose value exceeds US\$ 1,000, the maximum amount of the administrative penalty applicable shall be tripled; and
- (e). where the goods are of a type set out in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the maximum amount of the administrative penalty applicable shall be tripled.

3. Where two or more subparagraphs of paragraph 2 are applicable to an offense, the highest maximum penalty amounts shall be taken as the basis for determining the administrative penalty.

4. Notwithstanding the provisions of paragraph 2 of this article, where the object of any customs offence are goods whose value is less than US\$ 20, an administrative penalty of not more than US\$ 100.00 shall apply.

5. Where the person concerned makes a voluntary disclosure to Customs of the circumstances of the offence prior to Customs discovery of the offence, the Director General shall consider such disclosure as a mitigating factor for the purposes of determining the

amount of any administrative penalty to be imposed on that person.

CHAPTER II Tax and Customs Offences in particular

SECTION I (Definition)

Article 190 (Importation or Exportation Contrary to Law)

Any person who, contrary to the provisions of the customs laws and subsidiary law is I shall be liable to an administrative penalty not exceeding the value of the goods concerned:

- (a). smuggles or clandestinely imports or introduces into Timor-Leste goods avoiding customs formalities or attempts to do the same;
- (b). smuggles or clandestinely exports goods from Timor-Leste goods avoiding customs formalities or attempts to do the same, including attempts;
- (c). fails to declare to Customs goods carried on his person or contained in his baggage when entering or leaving Timor-Leste;
- (d). removes goods from an area under customs control or a free zone or free warehouse prior to their release or without authorization issued by Customs including attempts;
- (e). acquires or receives goods that the person knows, or should have known, are the object of any offense described in subparagraphs (a) to (d);

Article 355 (Evasion of Duty or Other charges)

Any person who, contrary to the provisions of the customs laws shall be liable to an administrative penalty not exceeding three times the duties and other charges due on the goods concerned.

- (a). fails to indicate in the customs declaration the correct, true or complete details in respect of type, quantity, tariff classification, value or origin of goods, or fails to declare all goods, as a result of which the customs debt is calculated or paid at a lower amount than the actual amount;
- (b). by providing false details, obtains a reduction in, or relief from, or refund of customs duty or tax or attempts to do the same;

Article 192 (Administrative Violations)

1. Any person who, contrary to the provisions of the customs laws, shall be liable to an administrative penalty of US\$ 500 up to US\$ 5,000:

- (a.) fails to keep required records or to refuse to deliver, display or produce such records, namely accounting, declarations and documents for examination by Customs;
- (b.) fails to submit a cargo declaration within the period prescribed;
- (c.) fails to include or describe in a cargo declaration any goods that are found on board of any conveyance or after having been discharged from such conveyance;
- (d.) unloads or tranships goods without the authorization of Customs or in places not designated or approved by Customs or attempts to do the same;
- (e.) conveys goods brought into or transiting Timor-Leste by a route other than that specified by the Customs or in accordance with Customs instructions or attempts to do the same;
- (f.) being the person who brings goods into the customs territory, or the person is responsible for their transportation after they have been brought into the customs territory, and fails to notify the arrival of such goods to Customs or to report all quantities of goods unloaded or refuse to produce the goods to the competent authorities for inspection and instruction of the violations under the present Code, when it is not an offense;
- (g.) uses goods in temporary storage in a warehouse contrary to the conditions approved by Customs;
- (h.) obstructs verification of a customs declaration accepted by the Customs;
- (i.) make a customs declaration with incorrect or incomplete information concerning the type or quantity of goods, identity of the parties, identity of the conveyance, commercial or transport document references, or permits, authorizations or licenses, whether or not such incorrect or incomplete information affects the calculation or payment of the customs debt;
- (j.) fails to comply with any conditions or obligations prescribed in any authorization granted by Customs or laid down in this Code or prescribed for use of a customs

procedure, and in case of suspensive procedures, the law has been violated and such conduct is not considered as an offense;

- (k). fails to notify Customs when the actual export of goods declared for export is cancelled as required under Article 234;
 - (l). fails to produce the goods placed subject to transit procedure as well as the required documents at the customs port of destination in accordance with the provisions of that procedure;
 - (m). as a person responsible for transportation of goods under customs supervision within the customs territory, fails to declare the transported goods in accordance with Article 232 or fails to present all goods referenced in the accompanying document to Customs at the place of destination or which transports the goods without the relevant payslips or other documents legally required or with applying seals, stamps, marks or other signals legally required, including attempts ;
 - (n). removes or destroys a customs seal or other fastening, fasteners or identification mark or attempts to do the same;
 - (o). obstructs the customs supervision of activities in a free zone or free warehouse, including attempts;
 - (o). carries out activities in a free zone or free warehouse contrary to the provisions of the customs laws or without the authorization of the Customs, including attempts;
 - (p). transmits, receives, or accesses a customs information system without authority, including attempts;
2. The same fine referred to in the preceding paragraph shall be applied to a person who, by any means, prevents or obstructs any ordered inspection or exam of the goods by a competent customs officer.

Where the acts described in paragraph 1 are shown not to be the result of an intentional or negligent act or omission, an administrative penalty of not more than US\$ 250 up to US\$ 2,500 shall apply.

Article 358 (Destruction of Goods)

1. A person who, being the owner, authorised warehouse keeper or carrier of any goods seized under the terms of this legal doctrine, destroys, causes damage to or renders such goods unusable upon seizure or at a later stage shall be liable to an administrative

penalty equal to twice the amount of the goods.

2. The same penalty shall be applicable to a person who, after becoming acquainted that an inquiry or action has been initiated against him or against a co-offender, in connection with an offence provided for in this Code, destroys, disposes of or encumbers any goods that have been either seized or arrested as a guarantee of payment of the outstanding amount of the customs tax debt, even if such a debt is due only by the other co-offender or liable person.

Article 360 (Frustration of Credits)

1. A person who, after an inquiry or proceeding for a customs offence, and in order to frustrate, in whole or in part, the coercive collection of any amounts owed to the State for the commission of any such offence and for whose payment is declared to be liable for having by any means sold, disposed of or encumbered his property, such person shall be liable to pay an administrative penalty 20% on the customs value of the goods.

2. A person who, having being informed that an inquiry, a criminal or misdemeanour procedure has been initiated against him in connection with a violation or offence, signs acts or contracts that amount to the conveyance or encumbrance of property with the intent and for the purposes referred to in the preceding paragraph shall be subject to an administrative penalty of the same of amount.

3. A administrative penalty shall not be applied where, notwithstanding the acts described in this Article, if, however the amounts due are paid off in total in the course of the procedure and within a deadline set for that purpose.

SECTION II (Seizure, Forfeiture and Arrest)

Article 361 (Seizure of Goods)

1. Any goods that are object of a customs offence and, so, the conveyances, weapons and other instruments used in the offence or which are intended to be used for this purpose will be seized and stored under article 370.

2. The goods declared as seized and which are to be forfeited by Customs are those goods that:

- (a). are stolen, smuggled, or are clandestinely imported or introduced into, or exported or attempted to be exported from, the customs territory;
- (b). whose importation or exportation is prohibited by law; or

- (c). are narcotics, garbage, toxic waste, including food items, adulterated vaccines or medicines that are improper for consumption or harmful to public health, imported or exported contrary to law,
 - (d). whose importation or exportation requires a permit, license or other authorization is required by law, and such permit, license or other authorization is not obtained;
 - (e). are imported goods and the notification of arrival of such goods to Customs was not made in breach of obligations under the customs laws,
3. Customs shall promptly notify the Minister and the competent services of the State of the details of any seizure of goods the importation or exportation of which is prohibited by law.

Article 362 (Seizure of Goods Subject to Administrative Penalty)

1. Where the Director General has reasonable grounds to believe that a person has committed a customs offense that gives rise to an administrative penalty under this Title and that such person is insolvent or is beyond the jurisdiction of Timor-Leste or that seizure is otherwise essential to collect the amount dues, he may order that the goods involved in such offense be seized and, upon determination and final decision of an administrative penalty under this Title, will be forfeited unless the administrative penalty is paid within the time required by law.
2. The Director General may authorize the return of such goods upon the deposit of security not to exceed the maximum administrative penalty which may be assessed.
3. The proceeds of sale of the forfeited goods, if any, in excess of the assessed administrative penalty and expenses with the seizing, maintaining, and selling the goods shall be held for the account of any interested party.

Article 363 (Seizure of Conveyances and Instruments)

1. Any conveyance, weapons or other instruments used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unloading, landing, removal, concealing, harbouring, subsequent transportation or exportation of any goods subject to seizure under Article 195, whether upon such conveyance or other thing or otherwise, shall be seized and forfeited.
2. Seizure of any means of conveyance may be replaced by a guarantee, surety or cash

deposit in an amount equivalent to the value of such means of conveyance.

3. Forfeiture of means of conveyance, weapons and other instruments that seized under paragraph 1 of this article may only be declared by a court order.

Article 364 (Restitution)

1. Except where the law prohibits its restitution, the goods and means of conveyance and other instruments that have been seized under the customs laws shall be restored to their owners:

- (a). as soon as the court renders a final decision for the claimant, *res judicata* or as soon as the Public Prosecution Service refrains from bringing forward formal accusation or Customs decides to dismiss the case and it becomes clear that no customs debt is due; and

- (b). as soon as, custody, preservation, guard and transport expenses are paid, or a guarantee is offered, and the customs debt due is likewise guaranteed or paid, in addition to the administrative penalty, if any.

2. In the cases provided for in the preceding paragraph, Customs shall decide upon the customs debt and the possible authorisation for re-exporting the goods.

CHAPTER III Procedure

SECTION I (Reporting of offences, and storage and disposal of goods)

Article 367 (Notification of Seizure)

1. Whenever customs officers makes any seizure of goods under the customs laws, Customs shall notify in writing the owner of the goods and in the remaining parties with an interest on the seized goods of its intention to forfeit and dispose of the goods in accordance with law with an explanation of reasons for the seizure and rights of appeal under this Code.
2. Such notice shall be sent in a manner to achieve actual notice as soon as practicable, and in no case more than 10 days after the date of the seizure.

Article 368 (Forfeiture)

1. Goods seized under this Code shall be declared forfeited by the Director General where-

- (a) no appeal is lodged as prescribed by this Code following notification of the seizure,
or
 - (b). any appeal lodged under this Code against the seizure is denied by the Director General and no further legal appeal against is lodged within the period prescribed by law.
2. A declaration of forfeiture under this Article shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a competent court.

Article 366 (Reporting and Notification of Offences)

1. Customs officials and any officer or law enforcement agents when witnessing any customs violation shall seize the goods, conveyances or instruments which are to be delivered to Customs, according to article 370, and when this entails a prison sentence, shall detain the offender in flagrante delicto, presenting them to a judge with jurisdiction in the briefest period as feasible and, in any case, filling a report of the offence with a copy to the nearest Customs or to the General Directorate of Customs, as the case may be.
2. The persons referred to in the preceding article which are aware of facts they understand to be a fiscal violation shall notify the Customs in writing.
3. Both the report of the offence and the notification, when possible, will have the complete facts, date, time and place where the acts took place and the accompanying circumstances, reasons so that the participant may understand that is a tax violation, the name, status, profession, age, nationality, residence and any other details that can identify the offender or who could be liable for them, the person who are aware of them, and those who can bear witness, quality, quantity, amount and alleged destination of goods, conveyances and other instruments to which the possible violation is related and anything else that contributes to the finding and the punishment for the violation.
4. Where action is initiated on the basis of a document other than the report of the offence and without prejudice to provisions in article 372 regarding the waiver of processing and inquiry, investigation and processing are indispensable for collecting elements that might help prove the actual commission of the offence, its constitutive elements and the degree of culpability of the offender.

Article 369 (Prescription and decision on proceedings)

1. The proceedings for tax custom violations provided in this Code are extinguished by prescription after 5 (five) years have passed.
2. The prescription for fines involves the prescription of the ancillary penalty that has not yet been enforced.
3. The decision for the exoneration or enforcement of a fine must be issued within 20 (twenty) days from the defence or challenge by the offenders, except in very complex cases or those awaiting experts and other actions.

Article 370 (Storage of Seized Goods in Customs Facilities and Immediate Sale)

1. Goods, means of conveyance, weapons and other instruments seized under the customs laws shall be stored in customs facilities, unless the latter cannot receive them for lack of space.
2. Where the goods referred to in preceding paragraph are subject to deterioration, are perishable or where public interest or public health so justifies, the Courts and the competent authority responsible for management and disposal of property of the State in the remaining offences may authorise, by a customs proposal, the immediate destruction, sale, or donation, in whole or in part, of such goods to a charitable institution.
3. Sale operations shall be carried out under the terms of applicable laws and proceeds from sales shall be deposited to the order of the respective proceeding.
4. Where an appeal against the seizure of goods that have been sold under this Article is allowed, and the forfeiture denied, the owner of the goods shall be given the proceeds from the sale, less the amount of any administrative penalty determined to be due.

Article 371 (Other forms of Deposit)

1. Where goods, means of conveyance, weapons or other instruments that have been used for committing the offence cannot be immediately transported to customs facilities or these cannot receive them, such items shall be listed and described taking into account their quality, quantity and value, and shall be entrusted to a competent authorised warehouse keeper, with the exception of weapons, which shall remain in custody of law-enforcement agents, filling the relevant report which shall be signed by the seizers, witnesses, if any, and the authorised warehouse keeper, the duplicate of the delivery note being held by the

latter.

2. Should there be no competent authorised warehouse keeper in the area of the seized goods, the goods and other seized items shall remain in custody of law-enforcement agents.

3. In the case of seizure of cattle the owner or carrier of which is unknown, or if the former refuses to act as a legal depository, the seized animals shall be left to the responsibility with the nearest authority.

SECTION II (Acts and competencies in customs proceedings)

Article 372 (Waiver and obligation to process and investigate in customs proceedings)

1. There shall be neither an instruction nor an inquiry in connection with offences committed in the course of customs clearance formalities, or proved therein, provided that both have the elements required for a decision to be taken.

2. There shall be neither an instruction nor an inquiry where the report or notification of an offence contains:

(a) the facts which are part of the offence and these have been witnessed by the reporting or notifying official;

(b) elements sufficient to determine who committed the offence and the civilly liable persons, if any, as well as to ascertain the respective liabilities.

3. The notification of Customs decision according to Article 64 shall not take place before the offender is heard and without give him the opportunity to challenge and submit the evidence that he deems fair and he is also informed that it is possible for the authorities to demand the voluntary payment and the assessment provided for in Articles 374 and 375 of this Code.

Article 373 (Entities competent to apply administrative penalties)

1. Without prejudice of, and before the final decision is issued, the superior entity may call up the case, the following persons shall be competent to process any of the offences provided for in this Code and to apply the respective administrative penalties:

(a) the Customs Director at ports and international airports across the customs territory, who may delegate this competency and, moreover, the custom violations in the proceedings that call up the Customs, in connection of which no final decision

has been issued;

(b) the customs directors in charge of customs posts in their respective jurisdictions.

2. Territorial competence is determined by the place where the seized goods or, in the absence thereof, by the place where the customs offence was committed or, if this is not known, by the seat of the entity who first became acquainted with the offence.

3. Notwithstanding paragraph (1), before a decision by one of the persons referenced in that paragraph is made, the Director General may order any case to be remitted to him for decision.

4. The decision in connection with the application of fines and ancillary penalties to customs bonded warehouses for fuels and, in general, to those storing energy products essential to the Country, will be made by the Director General and an appeal can be made to the Minister.

SECTION IV (Voluntary payment and assessment request)

Article 374 (Voluntary Payment)

1. Voluntary payment is accepted for administrative penalties corresponding to the customs offences provided for in this Code.

2. The offender may make a voluntary payment to the authority processing the case, either immediately or within five (5) days after the receipt of notification of the decision to impose the administrative penalty.

3. Voluntary payment shall be 25% of the maximum applicable administrative penalty, and shall be without prejudice to obligations of payment of duties and taxes or other charges or fees or to Customs decision to suspend or revoke license or authorization as provided under this Code.

4. With the voluntary payment of the administrative penalty, either immediately or up to 2 business days after the date the request is filed, and once any duties and taxes or fees are settled, any goods seized under Article 196 to ensure payment of the penalty shall be restored to the owner, or his legal representative, exception made to weapons and other goods the importation of which is prohibited by law, under the terms of this Code.

Article 375 (Settlement request)

1. With respect to the customs offences provided for in this Code, the offender may

request, at any stage of the proceeding, but before a final decision is made, the settlement and payment of all amounts for which such person is liable, and the competent entity shall, after hearing such person, forthwith render his decision, either determining a penalty or acquitting the person concerned.

2. The proceeding may be pursued in connection with another offender other liable persons.

TITLE III CUSTOMS POWERS

Article 53 (Customs Controls)

1. Within their own jurisdiction, Customs may carry out all the customs controls as it deems necessary for the fulfilment of their mission.

2. All customs controls, based on risk analysis using electronic data-processing techniques, have the purpose of identifying and assess the risks and developing the necessary counter-measures, on the basis of criteria developed at national, local and, where available, international level.

Article 54 (Law Enforcement by Customs Officers)

1. Customs officers under their authority may -

- (a). by request by police authorities or other competent authority, execute and serve any court order, warrant, subpoena, summons, or other proceedings lawfully admitted;
- (b). conduct investigations of offenses that may have been committed against the custom laws of Timor-Leste;
- (c). carry out any activities for the protection of the revenue and prevention and detection of offenses of the customs laws in the terms the Minister may prescribe.

2. Where they deem it to be necessary in order to enforce compliance with obligations imposed by law, Customs shall request the collaboration of security forces to maintain law and order.

3. The security forces and services for the maintenance of law and order are obliged to provide the support requested from them by Customs.

4. All investigations made under this Code and other applicable laws are bound to prepare a report and, in case of suspicion of crime or misdemeanour, the respective report

of notice and other documents necessary for the proceedings.

Article 55 (Control and Inspection of Conveyances)

1. Customs may at any time inspect and restrict the movement any conveyance that -
 - (a). has arrived in the customs territory of Timor-Leste from a point outside thereof,
 - (b). is departing or is in transit from the customs territory of Timor-Leste to a place outside thereof,
 - (c). transporting goods that have been transferred from a conveyance referenced in subparagraph (a), or will be transferred to a conveyance referenced in subparagraph (b).
2. Customs may examine the manifest and the remaining documents of a conveyance described in paragraph 1 of this article and examine, inspect, and search such conveyance and every part thereof as well as any person, trunk, package, envelope, or cargo on board, and exclusively to this end may use force for this end and when the circumstances demand the use of such force under the law.
3. Customs shall have authority to secure any part of the conveyance by such means as it shall consider necessary retain the conveyance and to require any goods to be unloaded for examination or to maintain the security for other operations, as well as to seal, mark or otherwise secure any goods carried by such conveyance in order to protect the goods being transported.
4. Customs shall have authority to place one or more custom officers on board of any conveyance arriving at any customs port while such conveyance is within such port and, if necessary, while going from one such port to another, to examine the cargo and such conveyance and oversee the unloading operations thereof as well as to perform such other duties as may be required by law for the protection of the revenue.
5. All compensation and expenses for services rendered according to paragraph 2 of this article shall be reimbursed to the State by the owner or master of such conveyance unless the customs officer while he remains aboard is offered board and lodging accommodation similar to the one supplied to passengers.

Article 56 (Questioning and Detaining Persons)

1. Customs officers when enforcing their authority may question any person who is entering or departing from Timor-Leste, or who is found in the areas defined in Article 8.

1. 2. Where, as a result of that questioning or at any investigation Customs has reasonable evidence to suspect that a person has committed or is about to commit an offense of smuggling or avoidance of payment of customs duties, as defined by the Penal Code, they may detain such person under the following terms:

- (a). to enable Customs to make any investigation necessary to clarify the customs procedure required;
- (b). to ensure the presence of the detainee before the judicial authority in legal proceedings to validate the detention or to determine another measure.

3. Customs shall release or deliver a person detained under this Article in the custody of the arrest authority promptly but no later than 6 hours of initial detention.

Article 57 (Authority to Search Persons and their Baggage)

1. During their activities, customs officers may search a person:-

- (a). on board a conveyance that has arrived in, or is departing from, Timor-Leste; or
- (b). in the process of disembarking from, or embarking on to, a conveyance described in subparagraph (a);
- (c). who, having entered Timor-Leste at a port of entry, remains in the place under customs control.

2. Customs officers may search the baggage accompanying any person described in the preceding paragraph.

3. Under paragraph 1 of this article, Customs may stop persons for the purposes of conducting that preliminary search.

4. If, after a preliminary Customs has is suspicious that a person has hidden on or about his person any type of goods or goods liable to violate customs law, they may stop and search such person, and, if necessary, under the law, may use reasonable force.

5. Customs officers may immediately stop and search a person if Customs if they suspect that:

- (a). the person has a dangerous item hidden on or about this person;
- (b). the item poses a threat to the safety of a customs officer or any third party;
- (c). there is a need to act immediately in order to address that threat; and

- (d). a search under paragraphs 3 or 4 of this Article exposes the customs officer or any third party, to greater risk from their life.
- 6. For the purposes of this Article, a preliminary search is a search that—
 - (a). involves little or no physical contact between the person conducting the search and the person being searched; and
 - (b). is conducted by using Customs aids but not by any more invasive means or instrument.
- 7. Any kind of examination is always carried out by same sex individuals.

Article 58 (Authority to Search in Ports or Facilities)

Customs may at any time, without an order of a court, enter and search:

- (a). any area defined under Article 8; and
 - (b). any conveyance situated within the limits of such an area,
- a) and, subject to the preceding Article, to search any person found in such place or on such conveyance.

Article 59 (Search of Persons and Places outside the customs jurisdiction)

If there is a suspicion that any foreign goods on which customs duties due have not been paid, or which have been imported contrary to law, are held by any person or in any dwelling, shop, or other building or place in Timor-Leste, Customs may make application in accordance with the Criminal Procedure Code, for a court for the search and seizure of goods or other commodities.

Article 60 (Seizure of Conveyances and Goods)

If Customs determines upon any inspection that any conveyance or goods were employed to commit a customs violation from which the result is the seizure of said goods, these are seized and shall be held by Customs until the final decision is reached. .

Article 61 (Controls after release of goods)

- 1. Customs may, after releasing the goods and in order to ascertain rigorously the information contained in the cargo report or customs declaration, inspect any documents and data relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods. Customs may also examine such

goods and/or take samples where it is still possible for them to do so.

2. Such inspections may be carried out at the premises of the declarant or holder of the goods or their legal representative; of any other person directly or indirectly involved in those operations in a business capacity; or additionally of any other person in possession of those documents and information for business purposes.

3. After the fulfilment of the formalities in the Criminal Procedure Code Customs may have access to any place or premises, where the documents or records, including any stored on a data storage device, regarding a foreign trade activity or customs-controlled manufacture are kept, for the purpose of examining them in accordance with Article 18 of this Code.

4. Customs may examine such documents, records and data for the purposes of customs control and may make copies or seize such records delivering a copy to the importer, exporter, broker or manufacturer. Customs may also ask questions of any persons at the place or premises to verify compliance with the law.

5. At all times, during the control operation and if necessary to the investigation, Custom may seize, for the time necessary to make copies of the required information, any data storage device for the control, processing and storage of documents, records or data.

6. Customs officials with the authority granted by Article 18 or any powers under this Article must be authorised to do so by written authority of the Director General.