



DEMOCRATIC REPUBLIC OF EAST TIMOR

GOVERNMENT

DECREE-LAW No. ___/2007

**THAT INSTITUTES THE REGIME OF CUSTOMS AND CUSTOMS FUND
EMOLUMENTS**

The fraud and tax evasion practices are universally recognized as the main generator of revenue loss by the State and, consequently, of disloyal competition and social injustice.

The incentive for the anti-fraud fight must be adequate to the growing danger of the modern organizations with a vocation for fiscal criminality and, in particular, of those constituted for the practice of contraband.

Both the substantive law, with respect to the typification of these conducts, and the procedural law that establishes the procedures of control and supervision, will always be insufficient in the absence of human incentives capable of stimulating the efficient combat to the various types and forms of fiscal infractions and the prevention of corrupting perverse practices.

The desirable success in the prevention domain and repression to the customs fiscal fraud imposes a specific discipline and a permanent availability, beyond the adequate technical preparation for a good application of the checklist and customs value, verification, re-verification, checking and fiscal control of merchandise under the various regimes.

These factors have advised to practically the totality of fiscal administrations around the world to create stimuli for customs employees, and also promote the participation of all citizens in this superior task, creating customs Funds. Ascertained that the emoluments, while synallagmatic taxes, for services provided, do not constitute budget taxes.

Thus:

The Government decrees, under the terms of No. 3 of article 115 and paragraphs d) and e) of article 116 of the Republic's Constitution, to serve as law, the following:

Chapter I

Of Customs Emoluments

Article 1

(Expedient and shipping in commercial ships)

1. For the expedient relative to arrival, control and departure of each ship that executes the commercial operation of merchandise or of passengers, with the exception of military and local fishing ships, emoluments of US\$ 25 per ship are due.
2. For visits aboard, sealing, verifications, assistance and verification of volumes, the global emolument due is of US\$ 5 per processing of a Single Administrative Document (SAD).
3. On Sundays, holidays or nighttime (of any day), the value referred in the previous number will be doubled.

Article 2

(Arrival and departure of commercial or recreational airplanes)

1. For the customs expedient relative to the arrival, control and departure of each airplane, commercial or recreational, that performs a commercial operation of merchandise or passengers, with the exception of military planes, emoluments of US\$ 25 per airplane are due.
2. For visits aboard, sealing, verifications, assistance and verification of volumes, the global emolument due is of US\$ 10 per processing of a Single Administrative Document (SAD).
3. On Sundays, holidays or nighttime (of any day), the value referred in the previous number will be doubled.

Article 3

(Arrival and departure of commercial land transportation of merchandise)

1. For the customs expedient and fiscal clearance relative to the processes of merchandise entry, for each vehicle of commercial transportation and for each processing of a Single Administrative Document (SAD):
 - a) At customs or customs post, during normal business hours, emoluments of US\$ 5 are due;
 - b) In other localities, the value of US\$ 15 is due.
2. On Sundays, holidays or nighttime (of any day), the value referred in the previous number will be doubled.

Article 4

(Automobiles and baggage)

1. For the customs expedient and fiscal clearance of unaccompanied baggage, emoluments of US\$ 5 are due.
2. For the customs expedient and fiscal clearance of automobiles, with the exception of bicycles and motorcycles, emoluments of US\$ 10 are due.
3. For the customs expedient and fiscal clearance of bicycles and motorcycles, emoluments of US\$ 5 are due.
4. On Sundays, holidays or nighttime (of any day), the value referred in the previous number will be doubled.
5. When dealing with baggage or automobiles exempt of rights by law, no customs emoluments are due.

Article 5

(Denaturation, coloration, fiscal marking and destruction of merchandise)

1. For each assistance and per operation, including fiscal sealing, emoluments of US\$ 5 are due.
2. On Sundays, holidays or nighttime (of any day), the value referred in the previous number will be doubled.

Article 6

(Transfers at the request of the parties)

1. For services done at the request of the taxpayers and because of them, provided outside of the Customs' respective facilities, the displacement of employees originates the following emoluments:
 - a) Up to a total of 40 kilometers traveled, US\$ 5 are due;
 - b) Up to a total of 100 kilometers traveled, US\$ 10 are due;
 - c) More than 100 kilometers traveled, US\$ 15 are due;
2. In case of a transfer implying in overnight stay, US\$ 25 are due.

Article 7

(Amounts paid less)

When the final verification services are checked, amounts superior to US\$ 50 that were paid less to the State will generate emoluments in the amount of US\$ 10 per declaration.

Article 8

(Restriction and employee responsibility)

1. It is expressly prohibited for employees to receive the emoluments from the taxpayers.
2. The collection of the emoluments foreseen in the present decree-law links the employees to their permanent availability, where it is understood that it is their obligation to fulfill the orders that were determined by their superiors during or after normal business hours or normal place of employment.

Chapter II

Participation in fines and penalties

Article 9

(Scope and concepts)

1. For effects of the present document, fines and penalties are understood as all and any penalty per customs fiscal infraction that is translated into a certain economic value.
2. Customs fiscal infraction is understood as all and any conduct contrary to the legal and regulatory customs determinations in effect at the date of its practice as long as foreseen and typified as such in this legislation.
3. The fines are applied in a judicial process, by courts, and refer to serious conducts of damage to the interests of the National Revenue Service duly typified in the current criminal law.
4. The penalties are processed and applied by customs authorities and refer to conducts of damage to the interests of the State, duly typified in customs law, which do not constitute crimes.

Article 10
(Distribution and participation in fines and penalties)

1. The values of the fines applied because of the current customs legal norms will have the following destination:
 - a) 70% for the State;
 - b) 30% for the Customs Fund of the National Customs Directorship.
2. The part regarding the State will be quickly converted into effective Treasury revenue.
3. The part of the fines regarding the National Customs Directorship (NCD) will be reverted to the Customs Fund.
4. The delivery of the participations in the fines applied by the courts will be effected by them, to the credit of the Customs Fund of the National Customs Directorship, in the processes of customs crimes whose news reports have been the initiative of the Customs.
5. In the case of the previous number, the legal services in charge of the transfer will withhold, in favor of the courts, 10% of the amounts to be transferred to the credit of the Customs Fund, for expedient expenses.
6. The distribution of the penalties is foreseen in the Decree-law No. 10/2004, of May 11th.

Article 11
(Limit of participation in the fines and penalties)

1. The customs employees that have the right of participation cannot receive for each process an amount that exceeds their annual salary.
2. The exceeding part of the employee's annual salary will be reverted to the National Customs Directorship, being credited to the Customs Fund.

Chapter III
Participation in the sale of merchandise which is the object of fiscal infraction or abandonment

Article 12
Participation in the product of the sales

1. The values that result from the sales of merchandise, means of transportation or any other goods, whatever their origin, belong to the State.
2. When the fine or penalty referring to these merchandises has not been paid, the respective amounts will be withdrawn from the product of the sale, being integrated into the Customs Fund.

Chapter IV
Customs Fund

Article 13
(Constitution and management)

1. Of the customs emoluments charged within the scope of the present decree-law, 70% constitute revenue of the State and the other 30% constitute revenue of the Customs Fund itself.
2. The criteria of distribution of the co-participation in the Customs Fund by the employees will be approved by the Minister of Planning and Finances, by means of a NCD proposal.
3. The distribution of the co-participations will occur on a monthly basis, except for a superior decision to the contrary.

4. The Customs Fund must have a permanent reserve of at least 30% of the amounts entered in the month prior to the distribution.
5. Without jeopardy to the decision in the present document, the management of the Customs Fund will be regulated by a Dispatch by the Minister of Planning and Finances.

Article 14
(Employee participation in the Customs Fund)

1. The effective distribution of the co-participations that the employees have a right to will not take place before three months after the entry date of the first collection of emoluments in the Customs Fund.
2. As long as it is not possible to receive the emoluments in the SAD, via computer processing, the collection of emoluments referred to by the present decree-law will be effected through a triplicate payment slip, in a personalized model, to be created by the NCD, which will be attached to the customs declaration (SAD), until the customs clearance.

Approved by the Council of Ministers on July 26, 2007.

The Prime Minister

(Estanislau Aleixo da Silva)

The Minister of Planning and Finances

(Maria Madalena Brites Boavida)

Promulgated on August 13, 2007.

Publish.

The President of the Republic

(José Ramos-Horta)