

REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE
DEMOCRATIC REPUBLIC OF EAST TIMOR
GOVERNMENT

DECREE LAW 11- 2006

**CREATES THE EAST TIMOR EQUIPMENT
MANAGEMENT INSTITUTE
AND APPROVES THE RESPECTIVE BY LAWS**

With the purpose of ensuring the efficient use of heavy machinery, equipment and heavy vehicles, the Government resolved to create a public institute with administrative and financial autonomy and its own capital, responsible for achieving the optimum management and exploration of these assets which will be used to promote the development of infrastructure and meet the service needs of the Public Administration.

Whereas the principle of good management must guide the use and exploration of heavy machinery and other equipment to be used in works or infrastructures of public interest and essential for the development of the nation.

The Government hereby enacts, under the terms of item c) of art. 33 of Executive Order n. 3/2005, of June 29, and all provisions foreseen in number 3 of article 115 and item d) of article 116 of the Constitution of the Republic, to be valid as law, the following:

**Article 1
Creation of IGE**

This Order creates the East Timor Equipment Management Institute, hereby designated IGE, as a corporate entity under public law, with administrative and financial autonomy and its own capital.

Article 2
Principle of Specialty

1. The legal status of IGE includes all the rights and obligations necessary for achieving its mission under the terms stated in this statute and respective bylaws, which are attached to this Executive Order and constitute an integral part thereof.
2. IGE cannot conduct its activities or use its powers outside of the scope of its mission, nor dedicate any funds to purposes different than the ones attributed to it.

Article 3
Tutelage

IGE is subject to joint tutelage by the Minister of Plan and Finances and the Minister of Transportation and Communications under the provisions stated in the bylaws.

Article 4
Legal Regimen

1. IGE will be governed by the provisions in this statute and respective bylaws, as well as its internal regulations.
2. The IGE internal regulations state its organization and operations and are approved by a joint ministerial statute issued by the Minister of Plan and Finances and the Minister of Transportation and Communications.

Article 5
Assets

1. IGE is allocated an initial capital and its right to utilize public domain assets, the appropriate State budget appropriations consigned for its activities, and the heavy machinery or other equipment donated to the State.
2. All assets and funds referred to in the previous number which constitute the initial capital of the IGE are the property of the institute by way of a list approved by a joint communication by the Minister of Plan and Finances and the Minister of Transportation and Communications.

Article 6
Exemptions

IGE is exempt from all taxes, costs and emoluments of any nature in judicial procedures and notary and registration acts in which it intervenes.

Article 7
Transitory Provisions

1. Until the submittal of the financial plan for the year 2006/2007, all expenses resulting from IGE attributions are processed on account of the appropriate items in the State general budget.
2. Until the creation of the *Tribunal Superior* (Supreme Court) for Administrative, Tax and Accounting Affairs, all competencies attributed to this Court by the attached bylaws will be conducted by the *Tribunal de Recurso* (Appeals Court).

Article 8
Effective Date

This statute will be in effect 30 days after the date of its publication.

Approved by the Council of Ministers on January 25, 2006.

The Prime Minister
(signature)
(Mari Bim Amude Alkatiri)

The Minister of Plan and Finances
(signature)
(Maria Madalena Brites Boavida)

The Minister of Transportation and Communications
(signature with date)
(Ovídio de Jesus Amaral)

Enacted on March 30, 2006

To be published.

The President of the Republic

(signature)
(Kay Rala Xanana Gusmão)

ATTACHMENT

East Timor Equipment Management Institute - Bylaws

CHAPTER I GENERAL PROVISIONS

SECTION I CONSTITUTION, TUTELAGE, LEGAL REGIMEN, TERRITORY AND OFFICES

Article 1 Judicial Constitution

The East Timor Equipment Management Institute, hereby named IGE in abbreviation, is a public institute and a corporate entity, with administrative and financial autonomy and its own capital.

Article 2 Tutelage

1. IGE will perform its activities under the joint tutelage of the Minister of Plan and Finances and the Minister of Transportation and Communications.
2. As holders of tutelage powers, the Ministers of Plan and Finances and Transportation and Communications will have duties, as follows:

- a) Define the strategic guidelines for IGE;
- b) Approve the activities plan and private budget of IGE;
- c) Approve the appropriate directives for the fulfillment of the objectives stated in the strategic guidelines or activities plan;
- d) Approve the internal regulations, personnel lists and respective bylaws;
- e) Approve the activities report and management accounts;
- f) Approve the acceptance of donations, inheritances or other gifts;
- g) Approve the opening or closing of delegations, units or other forms of IGE representation in the country;
- h) Approve cooperation agreements with other domestic or foreign entities;
- i) Appoint and exonerate IGE agency officers;
- j) Approve other acts foreseen in the law or in these bylaws.

Article 3 Judicial Regimen

1. IGE will be governed by this Executive Order and respective Bylaws, by its specific legal provisions and, subsidiarily, by the legislation to be approved for public institutes.
2. With no detriment of the provisions of the previous number and in everything not yet regulated, the public management of IGE will be governed by the legal regimen of Public Companies, approved by Executive Order no. 14/2003, of September 24, and any eventual adaptations thereof.

Article 4
Territory and Offices

IGE is a body with jurisdiction at the national level, with head offices in Dili.

SECTION II
MISSION AND RESPONSIBILITIES

Article 5
Mission

The mission of IGE is to ensure optimum management, exploration and conservation of heavy vehicles, machinery and other equipment in general that constitute its assets, providing the appropriate conditions for their profitability and utilization in strict compliance with the infrastructure policies issued by the Government and in articulation with other Public Administration bodies.

Article 6
Responsibilities

The following are the general responsibilities of IGE:

- a) Advise the Minister of Transportation and Communications in formulating the policy established by tutelage for the exploration and conservation of heavy vehicles, machinery and other equipment;
- b) Evaluate the regulatory needs in all matters necessary for the management of the equipment;
- c) Promote and perform all actions necessary for optimum management and exploration of heavy vehicles, machinery and other State equipment, in order to achieve profitability;
- d) Cooperate with other entities responsible for the execution of the infrastructure policies with the purpose of an integrated perspective for the utilization of State machinery;
- e) Provide all the information about operations regarding the use of heavy vehicles, machinery and other equipment, under the terms of the applicable regulations;
- f) Centralize the procedures for all requests to use State heavy vehicles by federal or local public administration services or any other official entities;
- g) Create, manage and maintain a database with updated information about all heavy vehicles, machinery and other equipment and its evolution in general, including user registration and fuel consumption records;
- h) Cooperate with the patrimony services of the Ministry of Plan and Finances in order to share information about heavy vehicles, machinery and other equipment for registration purposes;
- i) Study, propose and draft legislation bills, procedures or other administrative measures geared to providing improvements in management and exploration of heavy vehicles, machinery and other equipment;
- j) Ensure good conservation and repairs for the fleet of heavy vehicles, machinery and

- other equipment of the State, creating and maintaining its own shops or establishing service agreements with other public or private entities;
- k) Ensure participation or cooperation with other national and international institutions pursuing civil construction accomplishments in highway projects, public buildings and housing, namely, public services of federal or local administrations;
 - l) Perform other responsibilities as stated in the law.

Article 7
Cooperation with other entities

In order to fulfill its responsibilities, IGE must promote articulation with the services and entities of the Ministry of Transportation and Communications and other ministries as well, in their respective areas of operation, as well as with public or private entities, domestic or foreign.

CHAPTER II
ORGANIC FRAMEWORK, COMPOSITION AND OPERATION

Article 8
IGE Agencies

IGE will have two agencies, namely the Administration Council and the Inspection Commission.

Article 9
Administration Council

The Administration Council is the collegial agency responsible for defining IGE operations and managing and directing their respective services.

Article 10
Composition and Appointments

1. The Administration Council includes one president and two voting members, appointed and exonerated by the Council of Ministers under a joint proposal by the Minister of Plan and Finances and the Minister of Transportation and Communications.
2. The selection of Administration Council members must conform to proven technical and professional criteria and the publication of the appointments must be followed by a notice about the academic and professional curricula vitae of the appointed members.

Article 11
Duration and Termination of Terms

1. The members of the Administration Council will be appointed for three year terms, which may be renewed for an equal period of time.
2. Administration Council members will cease to perform their responsibilities:
 - a) When their term of appointment expires;
 - b) In the event of permanent incapacity or supervening incompatibility of the member;
 - c) In the case of resignation by a member;

- d) In the case of justified exoneration due to serious and proven default committed by the member during the performance of his responsibilities, due to lack of compliance with the principles of budgetary management stated in this statute, serious violation of the standards governing the institute or non compliance with any obligation inherent to his position;
- e) In the case of conviction of the member for the practice of any serious felonious offense.

3. With no detriment of the provisions of the previous number, Administration Council members can be freely exonerated by whomever appointed them, and the exoneration can be based on mere convenience of service.

4. The term of Administration Council members will expire in the event of dissolution of the Administration Council or extinction of IGE.

Article 12 Responsibilities

The following are the special responsibilities of the Administration Council in guiding and managing IGE:

- a) Ensure the upper level direction and management of IGE and practice all acts necessary for the performance of its attributions;
- b) Define and draft the project for internal regulations necessary for the functional organization of IGE, as well as all projects for internal regulations for bylaws relative to wages, careers and respective staff, as well as disciplinary bylaws, to be submitted to tutelage for approval;
- c) Draft the annual activities report, budget, and other financial management instruments for the approval of the joint tutelage of the Minister of Transportation and Communications and the Minister of Plan and Finances, and ensure their respective execution;
- d) Ensure and exercise the powers of direction, management and discipline of all staff, including the respective disciplinary actions and application of disciplinary sanctions attributed by the law or disciplinary regulations;
- e) Manage all IGE assets and deliberate on the purchase and alienation of assets and financial equity, in conformity with what has been approved in the annual budget and after a favorable opinion from the inspection commission;
- f) Manage, maintain and ensure the registration of the fleet of heavy vehicles, machinery and other State equipment;
- g) Submit to tutelage, for approval, all acts and documents which must be submitted for approval under the provisions of the law or these bylaws, namely the investment proposals for decision;
- h) Collect and manage all revenues and authorize expenses;
- i) Draft all opinions, studies and information as requested by tutelage;
- j) Promote and establish cooperation agreements with other entities and public services for the purpose of simplification and more speed in administrative procedures related to use of heavy vehicles and machinery property of the State;
- k) Practice all other management acts necessary for the optimum operations of IGE under the terms foreseen in these bylaws.

Article 13
Operations

1. The Administration Council holds regular meetings once a week and special meetings whenever called by its president, or by request of its voting members or the inspection commission.
2. There will be no voting abstentions at the Administration Council, but voting statements will be allowed and recorded in the minutes of the meeting.
3. All Administration Council meetings will be recorded in minutes which must be approved and signed by all members present.

Article 14
Responsibilities of the Administration Council President

1. The President of the IGE Administration Council will have the following responsibilities:
 - a) Call and preside at Administration Council meetings and ensure that the meetings are recorded and the minutes signed;
 - b) Supervise the coordination and dynamization of Administration Council activities and ensure all deliberations are executed;
 - c) Conduct the administration of IGE and direct its staff and the actions of all its services;
 - d) Keep good relationships with tutelage and all other public bodies;
 - e) Represent IGE in court or out of court, when another representative has not been appointed;
 - f) Execute all other responsibilities delegated by the Administration Council.

Article 15
Binding Effect

IGE will be bound by:

- a) Joint signature of the Administration Council President and another voting member; or
- b) Joint signatures of three members of the Administration Council; or
- c) Signature of whomever is qualified for that effect under the terms and scope of the respective representation mandate.

Article 16
Bylaws of Administration Council Members

1. Members of the Administration Council are deemed public managers and are subject to the legal regimen to be approved for all public managers in all that is not regulated in these bylaws.
2. Administration Council member remuneration is established by ministerial statute issued jointly by the Minister of Transportation and Communications, Minister of Plan and Finances and Minister of State Administration.

3. Administration Council members will be governed by the general social security regimen, except when they are included as a public function, when they will be governed by the regimen adopted in their places of origin.
4. Administration Council members cannot perform any other public position or professional activity during their terms, except for teaching positions on a partime basis.
5. Administration Council members are subject to the same incompatibilities and impediments of persons occupying high public positions.

Article 17 **Inspection Commission**

The Inspection Commission is the body responsible for controlling the legality, regularity and good financial and asset management of IGE.

Article 18 **Composition and Terms**

1. The Inspection Commission is composed of three members, one president and two voting members, appointed by a joint statute from the Minister of Transportation and Communications and the Minister of Plan and Finances, and one of the members will serve as official inspector of accounts.
2. The term for Inspection Commission members is three years, renewable for one single and equal period of time.
3. In the absence of an inspector of accounts appointed under the terms of number 1, the Minister of Plan and Finances must order the hiring of outside auditors.

Article 19 **Responsibilities**

1. The Inspection Commission will have the following responsibilities:
 - a) Inspect all activities and management of IGE by way of a periodical review of all books, accounting records and supporting documents;
 - b) Issue opinions about the legality of acts of a financial nature of the Administration Council when required by the law or bylaws;
 - c) Issue opinions about the accuracy of the elements included in the report and accounts to be submitted annually by the Administration Council and issue detailed opinions about them, as well as about the budget and proposal to distribute financial results;
 - d) Issue opinions about the purchase, burdening, leasing and alienation of real estate assets;
 - e) Notify tutelage about any irregularities found in the management of IGE and propose measures to eliminate them;
 - f) Give opinions about the criteria used to evaluate assets, amortization and reintegration of capital, and constitution of provisions and legal reserves;
 - g) Propose to the Minister of Plan and Finances the hiring of outside auditors when this proves to be necessary or convenient;
 - h) Give opinions about any matter of interest to IGE is submitted to its review by the Administration Council, by tutelage, or by the Ministry of Plan and Finances.

2. The opinions referred to in the previous number will have to be drafted in 15 days counting from the date the pertaining documents are received.
3. For full compliance of their responsibilities, all members of the Inspection Commission will have free access to all IGE services and the documentation of the institute and can request any clarification or information they deem necessary.
4. Members of the Inspection Commission cannot be members if they have performed paid activities at IGE during the last three years before the start of their terms, and may not perform paid activities at IGE during the three years following their termination.

CHAPTER III FINANCIAL AND ASSETS REGIMEN

Article 20 Assets

The assets of IGE are constituted by the entirety of goods and rights, active and passive, that it receives or acquires for the performance of its responsibilities and will be transferred to it by the State by a joint communication from the Minister of Plan and Finances and the Minister of Transportation and Communications.

Article 21 Financing

IGE is financed by its own revenues stated in its private budget and international cooperation contracts, as well as by the State General Budget.

Article 22 Revenues

The following constitute IGE revenues:

- a) Appropriations foreseen in the State general budget;
- b) Subsidies, grants-in-aids, coparticipations or donations made by any public or private, domestic or foreign entities;
- c) Earnings from its own activities;
- d) The product of services rendered and alienation of its own assets;
- e) The product of the publishing or sales of publications;
- f) The product of fees, fines and other amounts of a cash nature consigned by legal and regulatory provisions;
- g) Any other revenues attributed by law, contract or otherwise, as well as others resulting from the performance of its responsibilities.

Article 23 Expenses

1. IGE expenses are those resulting from its duties and responsibilities inherent to the performance of its activities, duly recorded in the IGE private budget.

2. The processing and liquidation of expenses, after they are duly authorized by way of budget approval, can be conducted through any of the means foreseen in the law or approved by the Minister of Plan and Finances.

Article 24 Management Principles and Instruments

1. The financial management of IGE is based on the principle of budgetary balance, with its revenues at least equal to its expenses.

2. IGE activities also abide by the general rules established for the financial regimen of all services that enjoy administrative and financial autonomy, and the following management instruments will be utilized:

- a) Annual and pluriannual activity programs;
- b) Annual budget drafted based on the respective activity programs;
- c) Annual activity report;
- d) Management accounts;
- e) Balance sheet and income statement;
- f) Analytic accounting report, broken down by activity;
- g) Administration Council report and other documents and opinions about regular activities and budgetary compliance.

Article 25 Annual Budget

The annual budget for exploration and investment is executed in a way that abides by the nature and amount of all foreseen appropriations and any eventual deviations must be duly justified when submitting the accounts for the fiscal year.

Article 26 Financial Control and Accountability

1. Besides the financial control conducted directly by the Inspection Commission under the terms established in these bylaws, the Administration Council will send to the joint tutelage of the Minister of Transportation and Communications and the Minister of Plan and Finances, for approval, the annual report and financial management accounts, referenced June 30 of each year, including the following documents:

- a) Administration Council Report;
- b) Balance Sheet and Income Statement;
- c) List of all financing realized;
- d) Map with application of funds and their origin.

2. The documents referred to in the previous number must be attached with the opinion of the Inspection Commission, by November 15th of each year.

3. The Administration Council must also submit for the approval of the joint tutelage of the Minister of Plan and Finances and the Minister of Transportation and Communications the following documents:

- a) Activities program and respective budget proposal for operations, by February 4th of each year;
- b) Opinions issued by the Inspection Commission relative to the documents mentioned in the previous item.

CHAPTER IV STAFF

Article 27 Bylaws

1. The work regimen for all IGE staff will be individual employment contract, with the specialties foreseen in these bylaws and the provisions that may be established in the internal regulations.
2. The conditions for services and workplace discipline are established in IGE own internal regulations and abide by the legal provisions governing the regimen of individual employment contract.

Article 28 Training

1. IGE will provide training for its staff in the form of courses, internships and other actions.
2. As part of its attributions, IGE can also conduct courses or internships or grant scholarships under the applicable terms.

Article 29 Incompatibilities

IGE employees, whatever the nature of their employment relationship, cannot conduct cumulative public positions or private activities that interfere with the activities inherent to their positions.

CHAPTER V TRANSITORY AND FINAL PROVISIONS

Article 30 Requisition Regimen

1. All Public Administration employees and agents, as well as workers at public or private companies and public capital companies, can perform work at IGE under a regimen of detachment, requisition or service commission, under the terms of the Public Position Bylaws.
2. The mobility of employees and agents of the Public Administration will be conducted by joint communication by the Minister of Transportation and Communications and the Minister of State Administration, under proposal by the Administration Council of IGE.
3. All the duties performed under the previous number will be conducted with the guarantee of place of origin and no detriment of any rights. Also, these positions will be considered as having been conducted at the place of origin for the purpose of counting employment time.

Article 31
Option for Individual Employment Contract

1. The employees foreseen in the previous article may choose the individual employment contract regimen within one year from the effective date of this statute.
2. The right to choose is exercised by way of a written, individual and irrevocable statement sent to the President of the Administration Council by the deadline foreseen in the previous number.
3. The option for the individual employment contract is materialized with an agreement with the Administration Council, grounded on curricular evaluation and professional experience, taking into consideration all requirements corresponding to the content of the category of the employee.
4. Entering an individual employment contract implies in exoneration of the place of origin and the cessation of the relationship to the public position, which becomes effective when it is published in *Jornal da República*.
5. The employees who exercise their right to choose the regimen of individual employment contract under the terms of the previous number are integrated into the general regimen of social security eventually approved.
6. The calculation of pensions for the staff who have exercised their right to choose the individual employment contract, as well as the breaking down of the corresponding duties, will be processed under the terms of the legal regimen of social security.

Article 32
Acts and Contracts

1. All acts and contracts to be performed by IGE within its attributions, as well as all acts that imply in their revocation, rectifying or alteration, can be titled by a private document.
2. In the case of acts subject to registration, the private document must contain the authentic recognition of the signatures in legal terms.
3. Those documents through which IGE formalizes any legal business or contract, as well as documents issued by IGE in conformity with the elements stated in its writings, will be valid as executive title against anyone found to be a debtor of IGE through them, regardless of other formalities required by the general law.

Article 33
Liability

1. IGE will be liable before third parties for acts and omissions of its administrators, with no detriment of its right of subrogation against the administrators.
2. Members of the IGE Administration Council will be liable for damages caused by non compliance with their legal or enacted duties, except when they can prove to have acted with no guilt.
3. The provisions of the previous number do not invalidate any criminal or disciplinary liability that may be assessed by acts or omissions of the IGE Administration Council while performing its roles.

Article 34
Internal Rules

All standards necessary for the optimum operations of IGE are stated in the internal regulations to be drafted by the Administration Council within 90 days from the date of approval of the statute approving these bylaws, to be submitted to the approval and joint confirmation by the Minister of Transportation and Communications and the Minister of Plan and Finances.

Article 35
Staff Maps

The IGE staff table is approved by a joint statute issued by the Minister of Transportation and Communications, Minister of Plan and Finances and Minister of State Administration.

Article 36
Jurisdiction

1. It is the responsibility of judicial courts to judge any disputes involving IGE, including any actions to claim liability for any acts by its agencies, as well as reviews regarding the liability of the workers of these agencies before IGE.
2. With no detriment to the provisions of the previous number, it will be the responsibility of the administrative court to judge the appeals of any definitive and executory acts by IGE agencies, as well as to judge any claims regarding the validity, interpretation or execution of administrative contracts involving IGE.