

DECREE-LAW No. 3/2011**Of 26 January****CONVERTING THE MICROFINANCE
INSTITUTION INTO A PUBLIC
INCORPORATED COMPANY**

The publication of the present decree-law reflects Government's commitment to offer credit lines to East Timor's population as a means of alleviating poverty and promoting economic development, particularly in rural areas. UNTAET Executive Order No. 2001/8 of 1 December on the establishment of the Microfinance Institution of East Timor seems not to be in any way into line with the reality of the institution and the State of East Timor. The conversion of this institution into an entirely public incorporated company is this way necessary so as to ensure its consonance with East Timor's laws and to expand its activities within the bank and financial sector.

Thus,

In terms of Article 115, paragraphs e) and i) of the Constitution of the Republic, the Government decrees, to be applicable as a law, the following:

Article 1**Nature, denomination and duration**

1. East Timor's Microfinance Institution is hereby converted into an entirely public incorporated company, adopting the denomination of National Trade Bank of East Timor, Inc. [Banco Nacional de Comércio de Timor-Leste, S.A.], shortly called as BNCTL, S.A..
2. The BNCTL, S.A. is set up for an unlimited time period.
3. The present statute constitutes an enough basis for all legal purposes, including those of trade registration.
4. The by-laws of BNCTL, S.A. are hereto enclosed as an integral part of the present statute.

Article 2**Legal regime**

1. The BNCTL, S.A. shall be exclusively submitted to the supervision of the Central Bank and shall act accordingly to the present statute, its by-laws, general and special rules applicable to bank activity, the legislation applicable to trading companies and the other applicable legislation.
2. The BNCTL, S.A. shall not be subject to the general and specific rules applicable to the public sector, unless otherwise expressly prescribed.
3. The connection between BNCTL, S.A. and the State or other public entities may not result in situations which in any way are susceptible of obstructing, distorting or limiting fair competition.

4. The sanctions foreseen by the legislation applicable to bank activity shall apply to the administrative offenses and infringements foreseen by the present statute.

5. Without detriment to what is prescribed by the legislation applicable to bank institutions, the Central Bank may set rules, instructions and guidelines and execute such acts as it may consider appropriate in order to fulfill its competences and responsibilities in terms of the present statute.

Article 3**Succession**

East Timor's Microfinance Institution is succeeded by BNCTL, S.A., which carries on with the former's legal status, taking the whole of its property as well as of its rights and obligations.

Article 4**Social object**

1. The BNCTL, S.A. aims at providing bank and financial services in order to help reduce poverty and favor the development of economic activities throughout East Timor.
2. In complying with the goal set in the previous number, the BNCTL, S.A. may carry out such bank activities in terms of the law and of its business license.

Article 5**Capital stock**

1. The capital stock is completely paid up and amounts to US\$ 5,000,000 (five million American dollars).
2. The stock certificates representing the capital stock of BNCTL, S.A. are held by the State.
3. It shall be incumbent to the stockholders' meeting to decide on capital increases and the respective paying-in when they become necessary to a balanced broadening of the activities of BNCTL, S.A.

Article 6**State's function as stockholder**

1. State's rights as a stockholder shall be exercised through someone nominated by joint dispatch of the Government members responsible for the finance and the economic development areas.
2. The Government members referred to in the previous number may, by joint dispatch, set instructions in writing on the exercise of State's rights as a stockholder.

Article 7**Business made with concerned parties**

1. Without detriment to what is prescribed by the legislation applicable to bank institutions, the

following ones are deemed to be concerned persons as regards to BNCTL, S.A.:

- a) The power organs;
- b) The public institutions;
- c) Any legal entity in which the State has a stockholding or which is either directly or indirectly controlled by this one;
- d) Any legal entity with a director or a stockholder who is at the same time a director, an audit committee's member or a manager with the right or the power to individually or jointly bind BNCTL, S.A.;
- e) Any legal entity with a director or a stockholder whose husband or wife, ancestors or descendants in any degree or collaterals until the second degree, including those tied to them through adoption, are at the same time directors, audit committee's members or managers with the right or the power to individually or jointly bind BNCTL, S.A..

2. The rules laid down in the legislation applicable to bank institutions, including any instruction set by the Central Bank, regarding business made with concerned parties shall apply to business made between the BNCTL, S.A. and those referred to in the previous number.

Article 8 Pay

1. The salaries of directors and members of the audit committee shall be set by decision of the stockholders' meeting.

2. Without detriment to what is prescribed by the legislation applicable to bank institutions, the setting of the salaries of directors, members of the audit committee or any person in charge of the senior management of BNCTL, S.A. shall always be specifically grounded, depending on the complexity, the needs and the responsibility inherent in the respective functions as well as on the usual market trends of East Timor's bank sector.

Article 9 Strategic plan

1. The Board of Directors shall draw up yearly a strategic plan to be sent to the Government members responsible for the finance and the economic development areas 30 days before the yearly stockholders' meeting.

2. The strategic plan must span a period of not less than three years and shall include the following points:

- a) The goals of BNCTL, S.A.;
- b) The predictions for the business environment within which the BNCTL, S.A. operates;
- c) The business strategies of BNCTL, S.A.;
- d) Investment and funding programs of BNCTL, S.A.;
- e) Financial goals and projections for BNCTL, S.A.;
- f) Quarterly and yearly budgets;
- g) The dividends pay policy of BNCTL, S.A.;

h) The consonance of the operating of BNCTL, S.A. with the legislation applicable to bank institutions, including prudential rules, instructions and guidelines set by the Central Bank;

- i) The analysis of the previous performance with regard to corporate plans and set goals;
- j) The analysis of factors susceptible of affecting the fulfillment of goals and of creating important financial risks for BNCTL, S.A. or for the State of East Timor;
- k) The strategies regarding human resources and labor relations; and
- l) Relationship with business partners and strategies for managing it.

3. The strategic plan must also cover other subjects and issues demanded by joint dispatch of the Government members responsible for the finance and the economic development areas.

4. Within a reasonable deadline, the Board of Directors must inform the Government members responsible for the finance and the economic development areas of any important changes to the strategic plan or of any subject or issue susceptible of meaningfully affecting the fulfillment of its goals.

Article 10 Duty of information

1. Without detriment to what is prescribed by the law on trading companies as for the rendering of information to stockholders, the BNCTL, S.A. shall submit the following items to the Central Bank, the Government members responsible for the finance and the economic development areas and the National Parliament:

- a) A faithful and accurate summary of its quarterly balance sheet, within the deadline of 30 days from the end of each trimester;
- b) A faithful and accurate summary of its annual balance sheet, within the deadline of four months from the end of each accounting period;
- c) The audit judgment of the audit organ on the previous accounting period, within the deadline of four months from the end of each accounting period; and
- d) The annual report, within the deadline of five days from its publication.

2. The documents referred to in the previous number must be drawn up so as to allow the identification of any financial flows or any other business operations between the BNCTL, S.A. and the State or other public entities.

Article 11 Transparency

The BNCTL, S.A. shall publish in its official website and make available to the public, in the two official languages and in English, updated information on the following data:

- a) The legal framework applicable to the BNCTL, S.A.;

- b) The organizational structure and internal organization of BNCTL, S.A.;
- c) The functions and competences of each of its sections or internal organs;
- d) The annual financial reports of BNCTL, S.A.;
- e) Its subsidiary or affiliate companies and all entities in which it has a stockholding, a representation or an intervention, whatever is their nature and legal basis;
- f) The composition of its organs as well as the identification of the persons in charge of the senior management of BNCTL, S.A.;
- g) The information concerning the personnel, including, in a broad and consolidated way, the total pay earned by the personnel at its service;
- h) The pay earned by each director, each audit committee's member, each member of the risk management committee, by the secretary and by any person in charge of the senior management of BNCTL, S.A., including entertainment expenses, travel expenses, daily allowances and any other expenses in general.

Article 12 Labor relations

1. The employees of East Timor's Microfinance Institution shall keep all their rights and obligations in the face of BNCTL, S.A., according to the status they hold on the date the present statute enters into force.
2. The legal regimes of the individual work contract and of the contract for the rendering of services shall apply to the employees of BNCTL, S.A.

Article 13 Effectiveness

1. The by-laws of the BNCTL, S.A. shall become effective as far as third parties are concerned from the date of entry into force of the present statute, regardless of their registration.
2. The hereto enclosed by-laws of the BNCTL, S.A. do not need to be reported in a public deed and their registration must be unofficially made on the basis of the country's Official Gazette in which they have been published.
3. Any modification to the by-laws may only be introduced by decree-law.

Article 14 Transitional competence

Until the Central Bank is fully installed and initiates its functions, all the powers hereby conferred on it shall be exercised by the Banking and Payments Authority of East Timor.

Article 15 Revocation

UNTAET Executive Order No. 2001/8 of 1 December is hereby revoked.

Article 16

Entry into force

This statute shall enter into force on the day after its publication date.

Approved by the Council of Ministers on 10 November 2010.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Economy and Development,

João Gonçalves

Promulgated on 18 January 2011.

To be published.

The President of the Republic,

José Manuel Ramos-Horta

APPENDIX 1 BY-LAWS

CHAPTER 1 GENERAL PROVISIONS

Article 1 Denomination, nature and duration

1. The National Trade Bank of East Timor, Inc. [Banco Nacional de Comércio de Timor-Leste, S.A.], shortly called as BNCTL, S.A., has the legal nature of an entirely public incorporated company.
2. The company is set up for an unlimited period of time.

Article 2 Head office, offices, branches, agencies and other forms of representation

1. The head office of BNCTL, S.A. is located in Dili.
2. The board of directors may move the head office of BNCTL, S.A. to any other place within the national territory or establish offices, branches, agencies or other forms of local representation somewhere in the national territory or abroad.

Article 3 Social object

1. The BNCTL, S.A. aims at providing bank and financial services in order to help reduce poverty and favor the development of economic activities throughout East Timor.
2. In complying with the goal set in the previous number, the BNCTL, S.A. may carry out such bank activities in terms of the law and of its business license.

**CHAPTER 2
CAPITAL STOCK AND OTHER FINANCIAL
RESOURCES**

**Article 4
Capital stock**

1. The capital stock is completely paid up and amounts to US\$ 5,000,000 (five million American dollars).
2. The stock certificates representing the capital stock of BNCTL, S.A. are held by the State.
3. It shall be incumbent to the stockholders' meeting to decide on capital increases and the respective paying-in when they become necessary to a balanced broadening of the activities of BNCTL, S.A.

**Article 5
Representation of capital stock**

1. The capital stock is represented by 500,000 (half a million) stock certificates, each one having the nominal value of ten American dollars.
2. All stock certificates shall be nominative, registered ones and cannot be converted into stocks to the bearer.
3. The stock certificates representing the capital stock of BNCTL, S.A. are held by the State.

**Article 6
Other financial means**

1. The BNCTL, S.A. may issue any negotiable debt instruments such as bonds and commercial paper.
2. Unless forbidden by law, the issue of negotiable debt instruments such as bonds may be decided by the Board of Directors.

**CHAPTER 3
SOCIAL ORGANS AND REPRESENTATION
OF BNCTL, S.A.**

**Article 7
Social organs**

1. The social organs of BNCTL, S.A. are as follows:
 - a) The Stockholders' Meeting;
 - b) The Board of Directors;
 - c) The Audit Committee;
 - d) The Risk Management Committee.
2. The board of directors shall nominate a secretary for the society, whose competences are laid down in the law on trading companies.

**Article 8
Duration of mandates of the social organs**

1. The directors shall be elected for a term not higher than four years and they may be reelected.

2. The members of the audit committee shall be elected for a two-year period and they may be reelected.

3. The members of the risk management committee shall be elected for a two-year period and they may be reelected.

**Article 9
Regime applicable to the members of the board of directors and of the audit committee**

1. The following persons cannot be nominated as directors or audit committee's members:
 - a) The President of the Republic;
 - b) The members of National Parliament;
 - c) The Government members;
 - d) The members of the municipal organs;
 - e) The judges and the public prosecutors in the exercise of their duties;
 - f) The Suco chiefs;
 - g) The village chiefs;
 - h) The members of the Suco Councils;
 - i) The persons filling management and headship positions in the direct and indirect State administration or in independent entities;
 - j) The persons filling management and headship positions in the National Parliament, the courts, the public prosecuting department and the Office of the President of the Republic;
 - k) Public employees and Public Administration agents in the exercise of their duties;
 - l) The candidates to presidential election, to the election for the National Parliament or to any election for elective positions;
 - m) The leaders and the members of the political parties' organs, namely their presidents, vice presidents, general secretaries and vice general secretaries;
 - n) Anyone holding financial interests or interests of other kind which may be deemed incompatible with the fulfillment of his duties.

2. The directors and the members of the audit committee cannot exercise any other temporary or permanent activities in any company operating in the same sector as the BNCTL, S.A. and competing with it.

3. While exercising their mandates, the directors and the members of the audit committee cannot enter with the BNCTL, S.A. into any work contracts or contracts for the rendering of services that will take effect after they cease their functions, unless on the basis of a grounded joint dispatch of the Government members responsible for the finance and the economic development areas acknowledging the respective need or convenience.

**Article 10
Information on personal and financial interests**

1. The members of the board of directors and of the audit committee shall be subject to the regime of

information on conflicts of interests laid down by the legislation applicable to bank institutions.

2. Without detriment to what is prescribed in the previous number, the directors and the members of the audit committee shall inform the Central Bank of their personal and financial interests, including the following ones:

- a) Immovable and movable property;
- b) Vehicles;
- c) Stockholdings in any legal entity;
- d) Income;
- e) Debts and liabilities;
- f) Any function or position filled in a legal entity;
- g) Assets and property located abroad;
- h) Any right or interest regarding trust; and
- i) Any legal act in which they take part having as its object the interests referred to in the present number, paragraphs a) to h), to be entered into after the nomination date.

3. The directors and the members of the audit committee shall inform the Central Bank of their personal and financial interests at the moment they are nominated and, following their nomination date, on a yearly basis.

4. The BNCTL, S.A. must keep a record containing all information delivered in terms of this article, which shall be updated whenever new information data are delivered.

Article 11 Disqualification and dismissal

1. The members of the board of directors and of the audit committee shall be subject to the regime of disqualification and dismissal laid down by the legislation applicable to bank institutions.

2. Without detriment to what is prescribed in the previous number, the members of the board of directors and of the audit committee may also be dismissed upon decision of the stockholders' meeting or, if this organ does not act within 30 days after a Central Bank's instruction has been set aiming at disqualifying them, upon a Central Bank's decision, in case they have not properly informed of their financial interests and other personal interests in accordance with the present statute.

Article 12 Duties of the social organs' members

Without detriment to what is prescribed by the legislation applicable to the BNCTL, S.A., the members of the board of directors, of the audit committee and of the risk management committee must:

- a) Fulfill their functions in an impartial and professional way and always act accordingly to the interests of the BNCTL, S.A.;
- b) Keep up with, check and control the development of the activities and businesses of BNCTL, S.A. in all their aspects;

c) Assess and manage the risks associated to the activities of BNCTL, S.A.;

d) Ensure the sufficiency, the truthfulness and the reliability of the information concerning BNCTL, S.A.

Article 13 Managers with the power to bind BNCTL, S.A.

The managers with the power or the right to individually or together with any other person bind BNCTL, S.A. shall be subject to the legal rules and provisions referred to in Articles 9 to 12 of the present statute.

Article 14 Minutes

1. It shall be drawn up the minutes from the meetings of the social organs reporting the decisions taken.

2. The minutes must be signed by all those present.

3. The minutes of the stockholders' meetings shall be drawn up and signed by the president, the vice president and the secretary.

SECTION 1 Stockholders' meeting

Article 15 Participation in the stockholders' meeting

1. The State shall be represented in the stockholders' meeting by the person nominated by joint dispatch of the Government members responsible for the finance and the economic development areas.

2. All members in office of the social organs must attend the stockholders' meeting.

3. A common delegate of the bondholders may also attend the stockholders' meeting, as well as those persons whose attendance is allowed by the chair of the board of the meeting, such as, upon proposal of the board of directors, technicians of the BNCTL, S.A., so that they have the opportunity to clarify specific issues submitted to the stockholders' meeting.

Article 16 Composition and competence of the board of the stockholders' meeting

1. The board of the stockholders' meeting shall be composed by a chair, a vice chair and a secretary, who are elected by the stockholders' meeting.

2. It shall belong to the board of the stockholders' meeting to lead the discussions and to draw up the meetings' minutes.

3. It shall be incumbent to the chair to call the stockholders' meeting, in compliance with the legal formalities.

4. If the chair is absent or impeded, his functions shall be carried out by the vice chair.

Article 17

Notice of a meeting and meeting of stockholders

1. The stockholders' meeting shall take place ordinarily once a year and extraordinarily at the request of the board of directors, the audit committee or the State as the sole stockholder of BNCTL, S.A.

2. The stockholders' meeting shall be called by the chair of the board or by whoever replaces him with not less than 30 days of prior written notice addressed to the stockholder, in which all items to be discussed shall be explicitly reported.

3. The stockholders' meeting shall take place at the company's head office or elsewhere in the national territory as specified in the call notice.

Article 18

Competences of the stockholders' meeting

1. The stockholders' meeting shall decide on all such issues with regard to which the law and the present by-laws have conferred competence on it.

2. It shall be especially incumbent to the stockholders' meeting:

- a) To decide upon the management report and the accounts of the accounting period;
- b) To decide upon the proposal related to the application of profits;
- c) To yearly carry out the assessment of the company's management and audit performance;
- d) To elect the members of the stockholders' meeting board, the members of the board of directors and the members of the audit committee;
- e) To decide upon the by-laws modification and increases of capital;
- f) To decide upon the pay of the social organs' members of BNCTL, S.A.;
- g) To allow the acquisition and alienation of immovable property and the carrying out of investments with a value higher than US\$ 1,000,000 (one million American dollars);
- h) To decide upon the participation in the capital stock of other companies;
- i) To decide upon any item included in the meeting's notice.

SECTION 2

Board of directors

Article 19

Composition of the board of directors

1. The board of directors shall be composed by three, five or seven members nominated by the stockholders' meeting accordingly to the legislation applicable to bank institutions.

2. The nomination of the president and vice president of the board of directors shall be made by the

stockholders' meeting or, lacking it, by the elected board of directors.

Article 20

Competences of the board of directors

Besides the competences conferred on it by law, the board of directors shall be especially incumbent:

- a) To manage the social businesses and to carry out every act included in the social object;
- b) To shape the internal organization of the BNCTL, S.A. and to draw up the regulations and instructions that it deems to be appropriate;
- c) To hire the company's employees, including those in charge of the senior management of BNCTL, S.A., to define their contract terms and to exercise the corresponding managerial and disciplinary power over them;
- d) To nominate representatives with the powers deemed to be appropriate;
- e) To acquire, to burden and to alienate any rights and movable or immovable property, including stockholdings, and to carry out investments, whenever it is thought to be appropriate for the company, without detriment to what is prescribed in Article 18, No. 2, paragraph g);
- f) To decide upon the issue of bonds and other negotiable debt instruments until the top limit of US\$ 1,000,000 (one million American dollars);
- g) To comply with and to enforce the laws, by-laws and decisions of the stockholders' meeting;
- h) To either actively or passively represent the BNCTL, S.A. before court or outside it, being able to incur obligations, to start judicial proceedings and to take them forward, to confess, to withdraw or to conciliate as regards to lawsuits, to enter into arbitration agreements and to sign declarations of responsibility;
- i) To fulfill the remaining duties conferred on it by law or by the present by-laws and to decide upon any other subjects not included under the competence of the other social organs.

Article 21

Delegation of management powers

1. The board of directors may charge any of its members with certain management tasks.

2. Unless the law expressly forbids it, the board of directors may as well delegate the society's daily management to two or more directors or to an executive committee composed by an odd number of directors, the limits and terms of such delegation being registered in the minutes.

Article 22

Competence of the president and of the vice president

1. The president of the board of directors shall be incumbent:

- a) To represent the board of directors;
- b) To coordinate the activity of the board of directors and to call for and to lead its meetings;

c) To ensure the proper implementation of the decisions taken by the board of directors.

2. The president of the board of directors shall be replaced by the vice president in case of absence or impediment.

Article 23
Meetings and decisions of the board of directors

1. The board of directors shall meet ordinarily with the periodicity set by itself and extraordinarily whenever it has been called to meet by its president's own initiative or at the request of one director, in case the number of members of the board of directors is not higher than five, or of two directors, in case the number of members of the board of directors is higher than five.

2. The meetings shall take place at the company's head office or at the place specified in the call notice.

3. The board of directors may only validly decide as long as the majority of its members are present or represented at a meeting.

4. In order to be valid, the decisions of the board of directors must be taken by majority of votes, the president or the one who replaces him having a quality vote in case of a draw in the voting.

5. Any director may make himself represented by another director at a meeting of the board of directors by means of a letter addressed to the president, but each representation document cannot be used more than once.

Article 24
Binding of the BNCTL, S.A.

1. The BNCTL, S.A. shall be bound through:

- a) The signature of two members of the board of directors;
- b) The signature of one or more representatives within the boundaries of the respective mandates;
- c) The signature of one sole director, within the boundaries of businesses made under delegation of the board of directors.

2. For the purposes of daily management matters, the BNCTL, S.A. shall be bound by the signature of one sole director.

3. The board of directors may decide, in legal terms and within the legal limits, that certain documents of BNCTL, S.A. shall be signed by a mechanical process or with a rubber stamp.

SECTION 3
Audit committee

Article 25
Structure and composition

1. The audit committee shall be composed by three members nominated by the stockholders' meeting

accordingly to the legislation applicable to bank institutions.

2. The members of the board of directors cannot at the same time serve as members of the audit committee.

Article 26
Competence

The audit committee shall have the competences conferred on it by the law applicable to bank institutions and trading companies.

SECTION 4
Risk management committee

Article 27
Structure and composition

The risk management committee shall be composed by three members of the board of directors, one of whom to be nominated by dispatch of the Government member responsible for the finance area.

Article 28
Competence

The risk management committee shall have the competences conferred on it by the law applicable to bank institutions.

CHAPTER 4
SOCIAL YEAR AND APPLICATION OF PROFITS

Article 29
Social year

The social year shall coincide with the calendar year.

Article 30
Application of profits

1. The duly approved company's annual net income shall be applied as follows:

- a) A minimum of 25 percent to constitute or to reinforce the legal reserve, without a limit;
- b) The remaining percentage for the purposes decided by the stockholders' meeting upon proposal of the board of directors.

2. The legal reserve referred to in the previous number, paragraph a) may only be used accordingly to what is prescribed by the Law on Trading Companies.

3. In terms of the law, the society may pay dividends in advance to the stockholder.