



**DIRECTIVE NO. 2002/3**

**ON CERTAIN EXEMPTIONS TO REGULATION 2000/17 (OF 8 JUNE 2000) ON THE  
PROHIBITION OF THE EXPORT OF WOOD FROM EAST TIMOR**

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United National Security Council resolution 1272 (1999) of 25 October 1999, as reaffirmed in United Nations Security Council resolution 1338 (2001) of 31 January 2001,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

Pursuant to UNTAET Regulation No. 2000/17 of 8 June 2000 on the Prohibition of Logging Operations and the Export of Wood from East Timor,

For the purpose of providing a system for exempting from the application of UNTAET Regulation No. 2000/17, in a manner that protects the public interest of East Timor, the export of sandalwood logged prior to 8 June 2000, and for the realization of revenues therefrom,

After consultation with the Council of Ministers,

Promulgates the following:

Section 1  
Exemption for Export of Sandalwood

The Ministry of Agriculture and Fisheries of the East Timor Public Administration (the "Ministry of Agriculture") may, pursuant to Section 3.1 of UNTAET Regulation No. 2000/17 on the Prohibition of Logging Operations and the Export of Wood from East Timor and in accordance with the procedures set forth in the present Directive, grant an exemption to the application of UNTAET Regulation No. 2000/17 for the export of sandalwood that was logged prior to 8 June 2000.

Section 2  
Lodgment of Applications

2.1 An application for an exemption to export sandalwood logged prior to 8 June 2000 shall be in writing lodged with the Director of Forestry of the Ministry of Agriculture (the “Director of Forestry”) in a form and according to procedures to be prescribed by the Ministry of Agriculture in administrative instructions issued pursuant to the present Directive (the “Export Exemption Application”).

2.2 An Export Exemption Application lodged in accordance with the present Directive shall be lodged not later than the date two months from the effective date hereof; provided, however, that at any time prior to 19 May 2002, such period for the lodging of Export Exemption Applications may, upon the determination of the Minister for Agriculture and Fisheries, be extended for not more than 30 days.

Section 3  
Determining the Age and Value of Sandalwood

3.1 The Director of Forestry shall determine the date on which the sandalwood subject to any Export Exemption Application was logged utilizing the most appropriate forestry-industry methods practicable within East Timor as the same shall be prescribed by the Ministry of Agriculture in administrative instructions issued pursuant to the present Directive and updated from time-to-time.

3.2 If the Director of Forestry determines, in accordance with the application of the methods described pursuant to Section 3.1 of the present Directive, that

(a) the sandalwood was logged prior to 8 June 2000, the Director of Forestry shall determine the market value of such sandalwood in the international market utilizing the most appropriate methods for determining such value as the same shall be prescribed by the Ministry of Agriculture in administrative instructions issued pursuant to the present Directive and updated from time-to-time; or

(b) the sandalwood was logged on or after 8 June 2000, the application for the export of such sandalwood shall be rejected and all such sandalwood seized by the Ministry of Agriculture and forfeit to the Public Administration.

3.3 A person (or any person otherwise asserting an ownership interest in such sandalwood) who disputes, with respect to an Export Exemption Application, the determination of (i) the date on which the sandalwood subject was logged as provided in Section 3.1 above or (ii) the value of the sandalwood logged prior to 8 June 2000 as provided in Section 3.2(a) above may, within seven calendar days of the date of such determination initiate a review proceeding with respect to such determination in accordance with Section 7 of the present Directive.

Section 4  
Export Exemption Fee

4.1 A fee for the export exemption, equal to thirty (30) per cent of the value of the sandalwood subject to an Export Exemption Application, as determined in accordance with Section 3.2 of the present Directive (the “Export Exemption Fee”), shall be payable by the applicant for the Export Exemption Application.

4.2 All amounts payable in accordance with Section 4.1 of the present Directive shall be delivered to the Banking and Payments Authority of East Timor for deposit into, and shall accrue to the benefit of, and the Consolidated Fund of East Timor (as such term is defined in UNTAET Regulation 2000/1 of 14 January 2000 on the establishment of the Central Fiscal Authority of East Timor).

Section 5  
Export Exemption Certificate

5.1 Upon the delivery the Director of Forestry of evidence of payment of the Export Exemption Fee in accordance with Section 4 of the present Directive, the Director of Forestry, on behalf of the Ministry of Agriculture, shall issue a certificate authorizing the export of the sandalwood subject to the Export Exemption Application (the “Export Exemption Certificate”).

5.2 The Export Exemption Certificate shall be in a form prescribed by the Ministry of Agriculture in administrative instructions issued pursuant to the present Directive, and shall include a designation of the value of the sandalwood and the Export Exemption Fee determined in accordance with, respectively, Section 3.2 and Section 4.1 of the present Directive.

5.3 An Export Exemption Certificate duly issued by the Ministry of Agriculture in accordance with the requirements of this Directive shall be sufficient for the purposes of permitting the exportation of sandalwood the subject of such Export Exemption Certificate.

Section 6  
Seizure Provisions

6.1 Upon the seizure of sandalwood pursuant to Section 3.2 of the present Directive, the Ministry of Agriculture shall give notice in writing to the person from whom the sandalwood was seized stating the reasons for the seizure and providing an inventory of the seized sandalwood.

6.2 Sandalwood seized by the Ministry of Agriculture shall be stored in a warehouse or other repository designated by the Ministry of Agriculture; provided, however, samples of such sandalwood may be taken for the purpose of examining or analyzing the same or for evidence in judicial proceedings related thereto, and samples not expended or consumed in connection with such examination or analysis or in the conduct of judicial proceedings shall be returned to the store of sandalwood as provided in this Section upon the completion of such examination, analysis or proceeding.

6.3 The provisions of this Section 6 shall be in addition to, and shall in no way preclude, substitute for or intervene with respect to, the prosecution of any criminal proceeding or the imposition of any criminal sanctions appertaining to the cutting, removal, logging, ownership or possession of the sandalwood seized pursuant to the present Regulation.

## Section 7 Review Procedures

7.1 A person seeking the review of a determination of the Director of Forestry in accordance with Section 3.3 of the present Directive may submit to the Minister of the Ministry of Agriculture any such documentary evidence, data, statements and such other information as may be relevant to (i) a date of the logging of the sandalwood, or (ii) a value of the sandalwood, different from that determined by the Director of Forestry in the application of the determination procedures set forth in Section 3 of the present Directive.

7.2 A decision arising in connection with a submission permitted under Section 7.1 of the present Directive shall be delivered in writing to the person making such submission within seven calendar days of the date of the submission, which decision, together with all documentary evidence, data, statements and such other information provided by the person making the submission, shall constitute, and shall be retained as, the official record of the consideration of the submission.

7.3 A person whose submission under Section 7.1 of the present Directive shall have been rejected may, within seven calendar days of the date of such decision, appeal such decision to the tribunal for the review of administrative matters of the East Timor Public Administration or, pending the establishment thereof, the District Court for the District of Dili. The decision of the tribunal for the review of administrative matters of the East Timor Public Administration or, pending its establishment, the District Court for the District of Dili shall be final.

7.4 In the event that, as a result of the review procedures set forth in this Section 7,

(a) the date of the logging of the sandalwood shall have been established to be prior to 8 June 2000, the sandalwood shall be eligible for export in accordance with the application of the remaining provisions of the present Directive.

(b) the value of the sandalwood shall have been established to be other than that determined in accordance with Section 3.2 of the present Directive, the value so established shall be the value for purposes of calculating the Export Exemption Fee as provided in Section 4.1.

7.5 The burden of establishing (i) a date of the logging of the sandalwood, or (ii) a value of the sandalwood, different from that determined by the Director of Forestry in the application of the determination procedures set forth in Section 3 of the present Directive shall at all times be upon the person seeking the review, and the Public Administration shall in no event be liable for any claim, suit, demand or liability of any kind, including costs or expenses, arising out of or in any way associated with the seizure of, or the delay in export of, sandalwood pursuant to the operation hereof.

Section 8  
Entry into force

The present Directive shall enter into force on 20 March 2002.

Sergio Vieira de Mello  
Transitional Administrator