

UNTAET

United Nations Transitional Administration in East Timor

26 April 2001

EXECUTIVE ORDER

**ON THE PROHIBITION OF THE UNLICENSED IMPORTATION OF FOREIGN CURRENCIES
AND OTHER CURRENCY EXCHANGE MATTERS**

The Transitional Administrator,

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

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation No. 2000/2 of 14 January 2000 on the Use of Currencies in East Timor, UNTAET Regulation No. 2000/5 of 20 January 2000 on the Licensing of Currency Exchange Bureaux, UNTAET Regulation No. 2000/6 of 22 January 2000 on the Establishment of a Central Payments Office of East Timor and UNTAET Regulation No. 2000/7 of 22 January 2000 on the Establishment of a Legal Tender for East Timor,

For the purpose promoting the use of the official currency of East Timor, preventing illicit movements of money into and from East Timor and assuring economic stability associated with a stable and freely convertible currency, including through the imposition administrative penalties,

Hereby orders the following:

Section 1

Restriction on the importation of foreign currencies

1.1 Effective immediately, and notwithstanding Sections 2 and 3 of UNTAET Regulation No. 2000/2, unless such person shall have first obtained from the *Central Payments Office* a permit for the same no *person* shall import into East Timor

- (a) an *affected foreign currency* in excess of the equivalent of US\$500, or

(b) any *foreign currency* other than an *affected foreign currency* in excess of the equivalent of US\$2000.

1.2 The monetary limits set forth in Section 1.1 of the present Order shall apply with respect to the sum of all *foreign currencies* imported by a *person* during each calendar month.

Section 2 Permit Procedure

2.1 The application for a permit to import *foreign currencies* as provided in Section 1 of the present Order shall be made in writing to the *Central Payments Office* in a form and according to procedures, and must be accompanied by the applicable fee (which shall reasonably relate to the administrative cost of processing an application), as may be prescribed by the *Central Payments Office* in administrative instructions.

2.2 A permit to import *foreign currencies* as provided in Section 2.1 of the present Order may be issued by the *Central Payments Office* for single use, a specified number of importations or multiple importations, and any such permit may be extended or renewed upon application in writing to the *Central Payments Office* in a form and according to procedures, and upon the payment of applicable fees, as may be prescribed by the *Central Payments Office* in administrative instructions.

2.3 The *Central Payments Office* may refuse to issue a permit to import *foreign currencies* as described in Section 2.1 of the present Order only in compelling circumstances. In the event of a refusal of an application for a permit to import *foreign currencies*, the *Central Payments Office* must provide to the applicant, in writing, the reasons for such refusal. For purposes of this Section 2.3, compelling circumstances include, but are not limited to, the following:

(a) prior criminal conviction or pending charges against the applicant relating to financial crimes (e.g., money laundering, tax evasion, counterfeiting and the like) or other felony in East Timor or any other jurisdiction;

(b) the applicant has been subject to an insolvency proceeding as a debtor in East Timor or any other jurisdiction;

(c) the Central Payments Office has determined that the applicant has been party to a transaction that violated this Order or any UNTAET Regulation or Directive, or instruction issued pursuant thereto, relating to banking or foreign currency exchange in East Timor;

(d) the applicant shall have otherwise failed to reasonably establish the need for the importation of *foreign currencies* into, and their intended use within, East Timor; and

(e) the *affected foreign currency* would, if imported, in the judgment of the *Central Payments Office* have an adverse effect on the payments systems of East Timor.

2.4 Any failure by the holder of a permit or principal thereof to comply with all conditions and other requirements issued by the *Central Payments Office* in connection with such permit shall render the permit immediately void, and the permit shall be surrendered to the *Central Payments Office* upon the demand of the General Manager thereof.

Section 3 Enforcement

3.1 Each failure to fully and immediately comply with Section 1.1 of this Order shall constitute an offense and shall result in its prompt enforcement by all means available to the Transitional Administration, including its law enforcement and border services.

3.2 A person who commits an offense as set forth in Section 3.1 of this Order shall, in addition to all other applicable civil and criminal penalties, be subject to the following administrative penalties -

(a) the confiscation of all *foreign currencies* imported in violation of the present Order, which confiscated *foreign currencies* shall be forfeit to and shall become the property of the Transitional Administration of East Timor upon the date thirty calendar days following its seizure unless proper authority to possess the same shall have been established prior to such date.

(b) a penalty not exceeding US\$5,000 per offense, as determined by the General Manager of the *Central Payments Office*.

Section 4 Currency exchange provisions

4.1 Pending the promulgation of an UNTAET Regulation amending UNTAET Regulations No. 2000/5 and 2000/6 with respect to the same, the Central Payments Office shall be empowered to apply, to the same extent and with the same effect, the provisions of UNTAET Regulation No. 2000/5, Section 9, to all *persons* engaged in *currency exchange*.

4.2 Any *person* engaged in *currency exchange*, whether as a currency exchange bureau or otherwise, who violates any provision of UNTAET Regulation No. 2000/5 shall be guilty of an administrative offense. A person who commits an offense as set forth in this Section 4.2 shall, in addition to all other applicable civil and criminal penalties, be subject to a penalty not exceeding US\$5,000 per offense, as determined

by the General Manager of the *Central Payments Office*.

Section 5 Review Procedure

5.1 A *person* from whom *foreign currency* has been confiscated pursuant to Sections 3.2(a) of the present Order or penalty imposed pursuant to Sections 3.2(b) or 4.2 of the present Order, or any person otherwise asserting an ownership interest in such confiscated *foreign currency* or *currency exchange*, may, within seven calendar days of the date of the confiscation or the imposition of a fine, submit to the General Manager of the *Central Payments Office* any such documentary evidence, data, statements and such other information as may be relevant to the establishment of proper authority to possess the confiscated *foreign currency* or to conduct the *currency exchange* as may relate to the *person's* ownership, possessory or other rights, title or interests therein, together with proof of payment of all applicable fees payable in respect thereof.

5.2 Any decision of the General Manager of the *Central Payments Office* arising in connection with a submission permitted under Section 5.1 of the present Order 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.

5.3 A *person* whose submission under Section 5.1 of the present Order 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 Transitional 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 Transitional Administration or, pending its establishment, the District Court for the District of Dili shall be final.

5.4 In the event the proper authority to possess confiscated *foreign currency* shall have been established by a *person* pursuant to this Section 5,

(a) the confiscated *foreign currency* shall be released to the possession of such *person*; provided, however,

(b) UNTAET 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 confiscation of *foreign currency* the proper authority to import shall have been subsequently established pursuant to this Section 5.

5.5 The burden of establishing proper authority to import *foreign currency* shall at all times be upon the *person* asserting such authority.

Section 6
Accrual of forfeit funds and penalties

All confiscated *foreign currencies* forfeit to the Transitional Administration of East Timor, and all fines arising under Section 3.2(a) and 4.2 of the present Order, shall accrue to the benefit of, and shall be delivered to the *Central Payments Office* for deposit into, the Consolidated Fund of East Timor (as such term is defined in UNTAET Regulation 2000/1).

Section 7
Definitions

Wherever used in this Executive Order,

(a) “*affected foreign currency*” means any currency, other than the official currency of East Timor, subject to limitations imposed by the issuing authority of such currency on the import or export of that currency from its country of origin, as reported to and recorded by the International Monetary Fund pursuant to Article IV of its Articles of Agreement, including but not limited to those currencies listed in Annex 1 of this Order, as the same may be amended from time to time by the Central Payments Office following notice from the International Monetary Fund with respect to the same.

(b) “*Central Payments Office*” means the Central Payments Office of East Timor as established pursuant to UNTAET Regulation No. 2000/6.

(c) “*currency exchange*” means the conduct of currency exchange transaction, including the sale and purchase of currencies, travelers’ cheques and similar negotiable instruments, provided *currency exchange* shall not include the casual exchange of currencies in connection with lawful transactions demoninated in other currencies.

(d) “*foreign currency(ies)*” means any currency, other than the official currency of East Timor as provided by relevant UNTAET Regulation.

(e) “*person*” means:

- (i) a natural person;
- (ii) a company or other juridical entity, wherever incorporated;
- (iii) a partnership, wherever formed;

- (iv) a trust, wherever established;
- (v) a business registered pursuant to UNTAET Regulation No. 2000/4, or
- (vi) any other incorporated or unincorporated association or body.

Section 8
Effective date

This Order shall take effect at 1200 hrs on 27 April 2001.

Jean-Christian Cady
Acting Transitional Administrator

Annex 1
Affected Foreign Currencies
(as of 27 April 2001)

Bangladesh	Taka
Fiji	Dollar
India	Rupee
Indonesia	Rupiah
Lao People's Democratic Republic	Kip
Malaysia	Ringgit
Mongolia	Tugrik
Myanmar	Kyat
Nepal	Rupee
Papua New Guinea	Kina
The Philippines	Peso
Republic of Korea	Won
Samoa	Tala
Solomon Islands	Dollar
Sri Lanka	Rupee
Thailand	Baht
Vietnam	Dong