



REGULATION NO. 2001/17

**TO AMEND REGULATION NO. 2000/18
ON A REVENUE SYSTEM FOR EAST TIMOR; AND
TO AMEND REGULATION NO. 2000/9
ON THE ESTABLISHMENT OF A BORDER REGIME FOR EAST TIMOR**

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

Pursuant to the authority given to him under United Nations 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,

Upon the recommendation of the National Council,

For the purpose of amending UNTAET Regulation No. 2000/9 of 25 February 2000 on the Establishment of a Border Regime for East Timor and UNTAET Regulation No. 2000/18 of 30 June 2000 on a Taxation System for East Timor, as amended by UNTAET Regulation No. 2000/32 of 29 September 2000, UNTAET Regulation No. 2000/35 of 20 December 2000, and UNTAET Regulation No. 2001/16 of 21 July 2001,

Promulgates the following:

Section 1
Modifications of Regulation No. 2000/9

1.1 The following Sections of Regulation No. 2000/9 are deleted:

- (a) Sections 3(b)(v) and 3(b)(vi); and
- (b) Section 14.

1.2 Paragraph (e) of Section 15 of Regulation No. 2000/9 is replaced with the following paragraph:

“(e) failure to cooperate with a search of the person or of the person’s vehicle, luggage or personal effects pursuant to Section 12 or 13 of the present regulation;”.

Section 2
Modifications of Regulation No. 2000/18

2.1 The list of Chapters in the preamble to Regulation No. 2000/18 is amended by:

(a) inserting after “Chapter XIII Anti-avoidance” the following:

“Chapter XIV Customs Service of East Timor”; and

(b) deleting the words “Chapter XIV Entry into Force” and substituting in their place the words “Chapter XV Transitional and Entry into Force”.

2.2 Section 3 of Regulation No. 2000/18 is amended by:

(a) inserting after the definition of “Commissioner” the following definitions:

“Customs Controller” means the Controller of the *Customs Service*;

“Customs Service” means the East Timor Customs Service;

(b) deleting paragraphs (d) and (e) from the definition of “enterprise” and substituting the following paragraphs:

“(d) a religious institution or organization with a turnover of more than \$200 per month as designated by the *Commissioner* in a *designation notice*;

(e) a charitable or non-profit institution or organization with a turnover of more than \$200 per month as designated by the *Commissioner* in a *designation notice*; or

(f) an importer or exporter who in the opinion of an *officer of the Customs Service* seeks to bring into, or take out of, *East Timor*, goods in commercial quantities;” and

(c) deleting the definition of “officer of the Border Service” and substituting in its place the following definition:

“officer of the Customs Service” means the *Customs Controller* or a *person* employed by the *Customs Service* and acting under the authority of the *Customs Controller*;”.

2.3 Section 5 of Regulation No. 2000/18 is amended by:

- (a) inserting the words “and Duties” after the word “Powers” in the title to the Section;
- (b) deleting paragraph (a) and substituting the following two paragraphs in its place:

- “(a) the duty to enforce provisions of the present Regulation apart from those which the *Customs Controller* has a duty to enforce;
- (b) the duty to collect all taxes, duties and fees levied:
 - (i) by the present Regulation; and
 - (ii) under the authority of Regulation No. 1999/1;apart from those which the *Customs Controller* has a duty to collect;”

and

- (c) changing the paragraph numbers for the following paragraphs so they are designated paragraphs (c), (d) and (e).

2.4 Section 6.1 of Regulation No. 2000/18 is amended by:

- (a) inserting the word “and” between paragraphs (a) and (b);
- (b) inserting a full stop after “*Commissioner*” in paragraph (b); and
- (c) deleting the remaining words and punctuation in the Section.

2.5 Section 18.1 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*” in paragraph (a).

2.6 Section 18.2 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*”.

2.7 Section 18.4 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*”.

2.8 Section 20.3 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*” both times the word “*Commissioner*” is used.

2.9 Section 20.4 of Regulation No. 2000/18 is amended by substituting the word “*Customs*” for the word “*Border*” in paragraph (a).

2.10 Section 24.1 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*” in paragraph (a).

2.11 Section 24.2 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*”.

2.12 Section 24.4 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*”.

2.13 Section 25.2 of Regulation No. 2000/18 is amended by substituting the words “*Customs Service*” for the words “*Border Service*”.

2.14 Section 26.1 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*” both times the word “*Commissioner*” is used.

2.15 Section 26.2 of Regulation No. 2000/18 is amended by substituting the words “*Customs Service*” for the words “*Border Service*”.

2.16 Section 26.3 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the word “*Commissioner*”.

2.17 Section 36.4 of Regulation No. 2000/18 is amended by substituting the word “*Customs*” for the word “*Border*”.

2.18 Section 84.1 of Regulation No. 2000/18 is amended by substituting the words “*Subject to Section 101, a person*” for the words “*A person*”.

2.19 Section 85.5 of Regulation No. 2000/18 is amended by substituting the words “*Customs Service*” for the words “*Border Service for East Timor*”.

2.20 Section 86.1 of Regulation No. 2000/18 is amended by substituting the following paragraphs (c) and (d) for the current paragraphs (c) and (d):

- “(c) the *Customs Controller* in respect of any decision made by the *Customs Controller* under Section 98; and
- (d) an *officer of the Customs Service* where an adverse decision by that officer has not been reviewed by the *Customs Controller* and the applicant notified within 7 days of their application for review under Section 98.”.

2.21 Section 86.3 of Regulation No. 2000/18 is amended by substituting the words “*Customs Service*” for the words “*Border Service*”.

2.22 Section 86.4 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the words “*Border Service Controller*”.

2.23 Section 90 of Regulation No. 2000/18 is amended by substituting the words “*Customs Controller*” for the words “*Border Service Controller*” both times the words “*Border Service Controller*” are used.

2.24 Paragraph (d) of Part B of Section 4 of Schedule 1 to Regulation No. 2000/18 is amended by substituting the word “*Directive*” for the word “*directive*”.

2.25 After Section 93 of Regulation No. 2000/18 shall be inserted the following:

“XIV. Customs Service of East Timor

Section 94

Creation of the Customs Service of East Timor

- 94.1 There shall be established as a separate office within the Central Fiscal Authority an East Timor Customs Service (hereafter referred to as “*Customs Service*”).
- 94.2 The *Customs Service* shall be headed by a *Customs Controller* who shall be appointed by the Transitional Administrator, after consultation with the National Council, and on advice of the Head of the Central Fiscal Authority, for a period of one year.
- 94.3 Pending appointment of a *Customs Controller* for the period set out in Section 94.2, the Transitional Administrator may appoint an interim *Customs Controller* for a shorter period.
- 94.4 The *Customs Controller* may be dismissed prior to expiry of the term of appointment only by the Transitional Administrator after consultation with the National Council.
- 94.5 The *Customs Controller* shall be assisted by Deputy Controllers who shall be appointed by the Transitional Administrator.
- 94.6 No *person* shall seek to interfere in any aspect of the operation of the revenue collection process or influence the *Customs Controller* or an officer of the *Customs Service* in carrying out responsibilities under the present Regulation, and the *Customs Controller* shall report such cases directly to the Transitional Administrator.

Section 95

Powers and Duties of the Controller

In addition to those specifically granted elsewhere in the present Regulation, or any other UNTAET Regulation, the *Customs Controller* shall have:

- (a) the duty to enforce provisions of any Regulation for the collection of:
 - (i) import duty;
 - (ii) excise tax on imported *goods*;
 - (iii) sales tax on imported *goods* imposed at point of entry;
 - and
 - (iv) taxes on exports;
- (b) the duty to control the import or export of *goods*, including those *goods* which are to be redirected to quarantine or health and sanitation authorities, as provided by a Regulation;
- (c) the duty to prepare advertisements, notices, forms, and other communications to ensure all *persons* understand their obligations and rights under the present Regulation;
- (d) the power to appoint such *persons* as may be required to carry out the provisions of the present Regulation in conformity with the Public Service Commission rules and regulations; and

- (e) the power to establish an organizational structure within the *Customs Service* appropriate for its functions.

Section 96
Delegation power

96.1 The *Controller* may:

- (a) delegate to any officer of the *Customs Service* any power or duty conferred or imposed on the *Customs Controller* by the present Regulation other than this power of delegation; and
- (b) direct that any information, form, or document required to be given to the *Customs Controller* shall be given to another *person* nominated by the *Customs Controller*.

96.2 The *Customs Controller* may revoke any of the powers delegated under Section 96.1 at any time.

Section 97
Rules governing *Customs Service*

97.1 The *Customs Controller* shall select and promote officers through the Public Service Commission and according to its rules.

97.2 All officers of the *Customs Service* shall wear an official *Customs Service* identification card while conducting business.

Section 98
Review

98.1 A person against whom an adverse decision has been made by an *officer of the Customs Service* may apply in writing to the *Customs Controller* for a review of the decision.

98.2 The *Customs Controller* shall review the decision and notify the applicant of the decision of the *Customs Controller* within seven days of receipt of the application.

Section 99
Reporting

99.1 The *Customs Controller* shall produce an annual report of the operations of the *Customs Service* and deliver this report to the Head of the Central Fiscal Authority as soon as practicable after the end of each *tax year*.

99.2 The annual report of the *Customs Controller* shall be provided to the Transitional Administrator and made available to the public.

99.3 The annual report of the *Customs Controller* shall include:

- (a) details of the budget of the *Customs Service*;
- (b) details of the number and level of staff of the *Customs Service*;
- (c) details of the revenues collected by the *Customs Service* showing details of the amount of revenue from each type of tax and each district and such other details that may be requested by the Head of the Central Fiscal Authority;
- (d) estimates of the cost of collection for each type of tax revenue collected;
- (e) details of all prosecutions initiated by the *Customs Service*, including the names of the *persons* who were convicted and the amounts of tax or duty involved; and
- (f) information on the use of powers to enter private premises, including the number and nature of any complaints about the use of those powers, but not including the names of the *persons* involved.

99.4 The Head of the Central Fiscal Authority shall present to the Transitional Administrator a copy of the annual report within one month of receiving the report.

Section 100 Delegated authority

100.1 Subject to Section 100.2, the *Customs Controller* may delegate authority to exercise any power of an *officer of the Customs Service* provided by the present Regulation or a Directive under the present Regulation to:

- (a) an officer of the *ETRS*;
- (b) an officer of the Civilian Police; or
- (c) an officer of the Border Service.

100.2 The *Customs Controller* may delegate power under Section 100.1 where:

- (a) such delegation is appropriate in the interest of effective administration of the responsibilities of the *Customs Service*; and
- (b) the delegation is in writing and sets out in detail the powers being delegated and the circumstances in which they can be exercised.

100.3 Where appropriate in the interest of effective administration of the responsibilities of the relevant service, an *officer of the Customs Service* may:

- (a) exercise powers of an officer of the *ETRS* where those powers have been delegated in writing to the officer by the *Commissioner*;
- (b) exercise powers of an officer of the Border Service where those powers have been delegated in writing to the officer by the Border Service Controller; and
- (c) exercise powers of an officer of the Civilian Police where those powers have been delegated in writing to the officer by the Commissioner of the Civilian Police.

Section 101
Information sharing

The *Customs Controller* and the *Commissioner* shall jointly establish, regularly review, and implement procedures for the routine mutual exchange of information between their offices as appropriate for efficient administration of the taxes and duties for which they are responsible.

Section 102
Powers that may be set out in Directives

The Transitional Administrator may by means of Directives establish rules and procedures for the *Customs Service* to enforce the provisions of the present regulation, including, but not limited to:

- (a) rules on designated ports of entry and exit for *goods*;
- (b) rules on arrival and departure procedures;
- (c) rules on unloading processes;
- (d) rules on customs forms and procedures for the payment of duty and tax;
- (e) rules on the release of imported *goods*;
- (f) rules on bonded warehouses;
- (g) details of *goods* exempted from taxation or duties by the present Regulation;
- (h) rules on the valuation of imported goods;
- (i) rules on the arrival and departure of natural persons relevant to the collection of duty and tax;
- (j) rules on the disposal of abandoned and unclaimed goods;
- (k) rules on the confiscation of *goods* and the seizure of objects and documents;
- (l) rules on the surveillance, examination and sealing of *goods*; and
- (m) the establishment of offences and penalties appropriate for the effective administration of the present Regulation.

XV. Transitional and Entry into Force

Section 103
Transitional rule

For the purpose of ensuring continuity with respect to the transfer of responsibilities from the Border Service to the *Customs Service* upon the entering into force of the present Regulation:

- (a) all proceedings and actions of officers of the Border Service prior to 1 July 2001 that are relevant to the exercise of powers or duties of the *Customs Service* under the present Regulation will be treated as if they were proceedings and actions of powers of *officers of the Customs Service*; and
- (b) the provisions of the present Regulation relevant to the powers or duties of the *Customs Service* in respect of those proceedings and actions will be treated as being in effect at the time that the proceedings and actions took place.”

2.26 The title “Chapter XIV Entry into Force” preceding Section 94 of Regulation No. 2000/18 is deleted.

2.27 Section 94 of Regulation No. 2000/18 is renumbered Section 104.

Section 3
Entry into force

The present Regulation shall enter into force upon signature.

Sergio Vieira de Mello
Transitional Administrator