

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

DECREE-LAW No. 20/2003

Of 13 November 2003

ON THE LEGAL TENDER IN TIMOR-LESTE

The purpose of the present Decree-Law is to strengthen the conditions of stability of the economy of Timor-Leste through the clear identification of the legal tender in circulation in the country, including the metallic coins issued by the Banking and Payments Authority of Timor-Leste, to prevent the unlawful circulation of coins (official or foreign) in the form of cash through the borders of Timor-Leste, to fight against the emergence of counterfeit currency, to avoid money laundering practices in Timor-Leste and to ensure economic stability which is associated with the existence of a stable monetary regime and with a freely convertible currency.

Thus, under the provision of Section 115, paragraph 3 of the Constitution, the Government of the Democratic Republic of Timor-Leste enacts the following to be valid as law:

Section 1 Definitions

Wherever used in the text of this Decree-Law, the following terms shall have the following meanings:

- (a) “*Banking and Payments Authority*” means the Banking and Payments Authority of Timor-Leste, an entity created by UNTAET Regulation No. 2001/30, which must be considered, for the purposes of the present Decree-Law, as the institution that discharges the functions of a central bank in the Democratic Republic of Timor-Leste, pursuant to the provisions of Section 143 of the Constitution of the Democratic Republic of Timor-Leste.
- (b) “*Centavo*” means the legal tender metallic coins issued by the Banking and Payments Authority, pursuant to the provisions of Section 50 of UNTAET Regulation No. 2001/30.

- (c) “*Foreign Currency(ies)*” means any currency other than the official currency of Timor-Leste as specified in the present Decree-Law.
- (i) “*Official currency of Timor-Leste*” means the currency in legal tender in the Democratic Republic of Timor-Leste as specified in Section 2 of the present Decree-Law.
- (ii) “*Cash*” means bank notes and coins whether they are the official currency of the Democratic Republic of Timor-Leste or a foreign currency.
- (d) “*Person*” means:
- i. A natural *person*;
 - ii. A company or other legal entity of similar nature, of an individual or corporate nature;
 - iii. Any other entity, association or organisation, whether or not endowed with juridical personality.
- (e) “*Transaction*” means any act of civil or commercial activity between two parties from which a financial obligation or payment in Timor-Leste arises, with the exception of *transactions* performed by banking entities or by duly licensed currency exchange agents.
- (i) “*Currency Exchange*” means an exchange operation involving different currencies, including the purchase and selling of coins, bank notes, traveller cheques and similar negotiable instruments.
- (f) “*US dollar*” or “*US\$*” means the official currency of the United States of America.

Section 2

Legal Tender

1. The official currency of the Democratic Republic of Timor-Leste is the US dollar.
2. The bank notes, the *US* dollar metallic coins and the *Centavos* metallic coins issued by the Banking and Payments Authority, as pursuant to UNTAET Regulation No. 2001/30 and regulated by Instructions issued by this Authority, shall be the only legal tender for all debts, public and private, in Timor-Leste.
3. Notwithstanding the provisions of Section 2.2 above, the Banking and Payments Authority may issue Instructions restricting the maximum limit that can be paid in a single operation in metallic coins or in bank notes of small denominations.

Section 3 Power to Withdraw Legal Tender from Circulation

1. The *Banking and Payments Authority* is authorised to withdraw from circulation denominations as well as specific issuances of Centavos metallic coins that have been previously issued by exchanging them for a new issuance of *Centavos* coins or by exchanging them for *US dollars*.
2. Prior to withdrawing Centavos from circulation, such withdrawal operations must be communicated in advance by means of Instructions which shall be published in the Official Gazette, wherein it should be explicitly stated to which currencies the withdrawal operation applies, the date in which the respective Centavos coins shall cease to be the legal tender, the period during which the above-mentioned currency must be presented in order to be exchanged, the places and times during which this exchange can be verified, the procedures to be adopted, including any potential documents to be presented, namely, for the appropriate identification of persons who render the Centavos to be exchanged, as well as other provisions deemed to be relevant by the Banking and Payments Authority.
3. Instructions issued within the framework established by Section 3.2 above may include provisions that refer to the procedures to be adopted in case of submission of counterfeit currency within the context of exchange for new currency.
4. The Centavos coins that are withdrawn from circulation, pursuant to the provisions of Section 3.1 above, shall be considered uncurrent, thus ceasing to be the legal tender commencing from the date defined by Instruction issued by the Banking and Payments Authority.
5. Commencing at the end of the currency exchange period, as defined in paragraph 2 above, and for a period of up to ten years from the date of the respective Instruction, the Banking and Payments Authority may, at its discretion, exchange the currencies that were withdrawn from circulation from *persons* who, for some relevant reason, did not have the possibility of exercising the right as specified in the same paragraph.

Section 4
Prices of and Payments for Goods and Services

1. The prices of all goods and services and all of the monetary references in respect of all the transactions shall be denominated in the official currency of Timor-Leste.
2. All payments arising from or in connection with any contract or any other transaction, whether public or private, made in the Democratic Republic of Timor-Leste, must be made exclusively in the official currency of Timor-Leste, including payments related to any debt or to any other obligation and payments owed by or received by any public authority of Timor-Leste.
3. Payments arising from the selling of goods or services as well as those arising from any other transaction shall be made in the exact amount of the cost or of the debt expressed in the official currency of Timor-Leste, including its component denominated in Centavos or in US dollar cents.

Section 5
Financial and Accounting Records

All entities, including the Government and the central and non-central organs of administration, must prepare, submit and update all their budgetary, financial and accounting documents in terms of the official currency of Timor-Leste, or, alternatively, possess at all times an updated version of the same documents denominated in the official currency of Timor-Leste where the original records are prepared in terms of a different currency.

Section 6
Restrictions on the Import and Export of Cash

No person may import or export to/from Timor-Leste a sum of cash (in the official currency of Timor-Leste or in a foreign currency) in excess of amounts to be determined in Administrative Instructions issued by the Banking and Payments Authority except where the person concerned has previously obtained a specific authorisation

from the Banking and Payments Authority to effect such import or export under the terms of the present Decree-Law.

Section 7

Authorisation Procedure to Import and Export Cash

1. Each authorisation request to import or export cash, as laid down in Section 6 above of the present Decree-Law, shall be submitted to the Banking and Payments Authority for appraisal in accordance with the procedures specified by this Authority, and must be accompanied by the payment of a fee (which shall cover the administrative costs resulting from the analysis and the handling of the respective authorisation request), in accordance to the provisions specified by the Banking and Payments Authority, through a corresponding administrative Instruction issued by this Authority.
2. An authorisation to import or export cash as provided for in Section 7.1 of the present Decree-Law may be issued by the Banking and Payments Authority for a single import/export operation or for multiple import/export operations corresponding to a previously established maximum limit. The respective authorisation may, in turn, be extended or renewed by means of a written request to the Banking and Payments Authority in compliance with the directives in force and subject to the payment of applicable administrative fees, as specified by the provisions of the relevant Administrative Instruction issued by this same Authority.
3. The Banking and Payments Authority may refuse to issue an authorisation for the import or export of cash, as provided for by Section 7.1 above, when relevant reasons and circumstances are substantiated, in which event the Banking and Payments Authority shall provide to the applicant a written justification for its refusal. For purposes of this Section, the following reasons and circumstances, among others, shall be deemed relevant:
 - (a) Prior criminal conviction or pending charges against the applicant relating to financial crimes (including, but not limited to, money laundering, tax evasion, counterfeiting and the like) or equivalent unlawful acts committed in Timor-Leste or in any other jurisdiction;

- (b) Insolvency proceeding on the part of the applicant whether in Timor-Leste or abroad;
 - (c) Determination by the Banking and Payments Authority that the applicant has been party to a transaction in breach of this or any other law, regulation or instruction relating to banking activities or exchange transactions in Timor-Leste;
 - (d) Failure on the part of the applicant to establish a valid justification to import or export a certified amount of cash and its intended use in Timor-Leste or abroad; or
 - (e) Failure on the part of the applicant to comply with one of the requirements imposed by the official issuing entity of the foreign currency, namely, concerning the restrictions on the import or export of this currency to or from his/her country of origin.
4. Any failure by the holder of an authorisation to comply with any of the conditions and requirements established by the Banking and Payments Authority in connection with such import/export authorisation shall render the authorisation immediately void, and the authorisation shall be promptly surrendered to the Banking and Payments Authority upon the demand by the Director-General thereof, and no fees paid in connection therewith shall be refundable to the applicant or holder of such authorisation.
5. Without prejudice to any provision of Section 7 of the present Decree-Law, no authorisation shall be required for any person to own, possess or dispose of any amount in foreign currency, whether in cash or in a bank or any other type of account, whether situated in the Democratic Republic of Timor-Leste or abroad.

Section 8

Additional Provisions on Currency Exchange Transactions

The Banking and Payments Authority shall have the power to apply, to the same extent and with the same effect, the provisions of UNTAET Regulation No. 2000/5, to all persons involved in currency exchange, irrespective of whether such person shall have obtained from the Banking and Payments Authority an authorisation

to act as a currency exchange agent in accordance with the provisions of such Regulation.

Section 9 Offences and Penalties

1. Any failure to fully comply with the provisions of the present Decree-Law shall constitute a violation to the law and shall result in its prompt sanctioning by all means available to the Democratic Republic of Timor-Leste, including its judicial instances, Customs and border services.
2. A person who commits an offence in relation to Section 4 of the present Decree-Law shall, in addition to other civil and criminal penalties, be subject to a penalty not exceeding US\$ 5,000 per offence, as determined by the Director-General of the Banking and Payments Authority.
3. A person who commits an offence in relation to Section 5 of the present Decree-Law shall, in addition to other civil and criminal penalties, be subject to a penalty not exceeding US\$ 5,000 per offence, as determined by the Director-General of the Banking and Payments Authority.
4. A person who commits an offence in relation to Section 6 of the present Decree-Law shall, in addition to other civil and criminal penalties, be subject to the following administrative penalties:
 - (a) The confiscation of all foreign currencies imported or intended to be exported in violation of the present Decree-Law, and the confiscated foreign currencies shall be forfeited to and shall become the property of the Government of the Democratic Republic of Timor-Leste if, within a period of thirty days after its confiscation, the legitimate property of this cash shall not have been duly established.
 - (b) A penalty not exceeding US\$ 5,000 per offence, as determined by the Director-General of the Banking and Payments Authority.

5. Any person involved in currency exchange, whether as a licensed currency exchange bureau pursuant to UNTAET Regulation No. 2000/5 or otherwise, who violates any provision of UNTAET Regulation No. 2000/5, shall be guilty of an administrative offence. A person who commits an offence as set forth in this Section 9.5 shall, in addition to other civil and criminal penalties, be subject to the payment of a penalty not exceeding US\$ 5,000 per offence, as determined by the Director-General of the Banking and Payments Authority.

Section 10 Authority to Confiscate Counterfeit Currency

1. The Banking and Payments Authority, all of the public institutions and their employees responsible for collecting public revenues, banks and other financial institutions as well as any other entities that provide cash-related services, such as currency exchange agents, transfer counters and similar operations in Timor-Leste, shall be obliged to confiscate any counterfeit currency, or suspect of being counterfeit, submitted to them, and, where the submission of counterfeit currency is not done in the Banking and Payments Authority itself, the person in question shall forward to this Authority the referred counterfeited, or suspected of being counterfeit, monetary specimen.
2. For purposes of Section 10.1 above, reference to “money” must be understood as being cash, thus referring to both coins and notes that are legal tender in Timor-Leste, whether in foreign notes or in coins.

Section 11 Review Procedure

1. A person against whom a penalty is imposed or from whom cash was confiscated (including any person, notwithstanding not being directly involved in the confiscation process, who submits legitimate evidence of being the owner of the confiscated cash) pursuant to Section 10 of the present Decree-Law may request the Director-General of the Banking and Payments Authority to review the confiscation process, which request shall:

- (a) Be in writing and addressed to the Director-General of the Banking and Payments Authority within seven calendar days of the date of the imposition of such penalty or of the date of confiscation of cash; and
 - (b) Include all such documentary evidence, namely, receipts, statements and such other information as may be relevant to the establishment of compliance with the requirements of the present Decree-Law, or, with respect to Section 9.5 of the present Decree-Law, the applicable provisions of UNTAET Regulation No. 2000/5.
2. Any decision by the Director-General of the Banking and Payments Authority arising in connection with the procedures established under Section 11.1 of this Decree-Law shall be communicated in writing to the person making such submission within seven calendar days of the date of submission of the request for review, which decision, together with all documentary evidence, namely, receipts, statements and such other information provided by the person making the submission, shall constitute and be retained as the official record of the process of the review procedure.
3. A person whose submission under this Section 11.1 is rejected may appeal to the relevant judicial instances within seven calendar days. The decision of the court possessing administrative competency on the matter shall be final.
4. Where it is administratively or judicially determined that any fine or confiscation of cash are not applicable, the procedures imposed shall have been determined according to this Section 11:
 - (a) The amount of the penalty paid shall be reimbursed to the person thereof, plus the interests calculated from the period between the date of confiscation and the date of reimbursement, the interest fee exercised by the Banking and Payments Authority in the payment of the official deposits; and
 - (b) The confiscated cash to which such determination applies shall be reimbursed to the person from whom the same was confiscated, provided, however, that under no circumstance the Banking and Payments Authority or the Government of the Democratic Republic of Timor-Leste

shall be summoned to respond to any damage, responsibility or any kind of compensation, including costs or expenses arising out of or in any way associated with the imposition of any penalty or confiscation of cash with respect to which compliance with the provisions shall have been subsequently determined in accordance with the present Section 11.

5. The obligation of establishing proper compliance with a provision of the present Decree-Law shall rest upon the applicant.

Section 12

Use of Forfeited Funds and Penalties

1. All confiscated cash shall revert on behalf of the Government of the Democratic Republic of Timor-Leste and shall be delivered to the Banking and Payments Authority for deposit into an official account of the Government with this Authority.
2. All penalties arising out of the enforcement of Section 9 of the present Decree-Law shall revert on behalf of the Banking and Payments Authority.

Section 13

Implementation

The Banking and Payments Authority shall have the power to issue Instructions and other administrative directives in connection with the implementation of the present Decree-Law.

Section 14

Effect

1. UNTAET Regulation No. 2001/14 on the Official Currency and Legal Tender of Timor-Leste shall be hereby null and void.
2. Notwithstanding the provision of Section 14.1 of the present Decree-Law, all of the instructions, regulating statutes, permits and other actions implemented or executed pursuant to the provisions contained in UNTAET Regulation No. 2000/2, UNTAET Regulation No. 2000/7 and UNTAET Regulation No.

2001/14 prior to the present date, shall remain in force until its revocation or substitution by new instructions, regulating statutes, permits and other actions issued or implemented within the framework of the present Decree-Law.

Section 15

Entry into force

The present Decree-Law shall enter into force on the day following its publication.

Approved by the Council of Ministers on 29 October 2003.

The Prime Minister

[Signed]

Mari Bim Amude Alkatiri

Promulgated on 4 November 2003

To be published.

The President of the Republic

[Signed]

Kay Rala Xanana Gusmão