

Government:

**Government Decree N° 6/2005**  
**27<sup>th</sup> of July**

**Procedural Regulation for Foreign Investment**

In order to define the procedures and practi

The present regulation is applicable:

- a) To applications for foreign investment permits submitted for appraisal and approval;
- b) To those cases of capital increase, offer and acquisition of shares of companies covered by the Law of Foreign Investment;
- c) To applications from investors that have invested in a company in Timor-Leste before the present law becomes effective.

## **Chapter II** **Prohibited, reserved and excluded economic activities**

### **Article 4** **Prohibited Activities**

No foreign investment is allowed in the following areas of activity:

- a) Those which constitute a crime or felony under the terms of legislation effective in the Country;
- b) Those which, because of their actual location, adversely interfere with the purpose and goals of natural parks or reserves declared as such by law;
- c) Those which are declared as such by general law;
- d) Those which offend public moral and traditional customs of the Country.

### **Article 5** **Reserved Activities**

1. Areas reserved for economic exploration and benefit of the State of Timor-Leste, with or without participation of the private sector are:

- a) Those related to:
  - i. Providing universal postal service and public communication services;
  - ii. Development and exploration of national parks, national marine or land reserves, or other areas protected under the terms of law;
  - iii. Production, distribution and sale of arms and ammunitions.
- b) Those declared as such by law.

2. Areas reserved for economic operation and use of natural or juridical national persons are those declared as such by law.

3. Conditions and terms for the participation of private entities in economic exploration and use of reserved areas shall be defined in specific legislation.

### **Article 6** **Excluded Activities**

Economic activities excluded from the regime established by Foreign Investment Law are:

- a) Those of prospect, research and production of oil and gas, as well as those in the area of mining of mineral resources;
- b) Those which are, or will be, subject to specific legislation;

- i) Proposal of eventual changes to be made in the respective ownership, in case of existing companies, as well as the agreement between shareholders, when applicable;
- j) Minutes of the appropriate organ of the applying company which prove the decision to proceed with establishment of the business in Timor-Leste, duly translated into

confirmed through documents issued or certified in Timor-Leste by the banking institutions, by customs authorities, or both, according to the nature and form of the investment.

3. If the direct foreign investment is in the form of equipment, machinery and other imported goods, the respective value of investment, at CIF prices, shall be considered for purposes of the exposed in the present article.

4. Whenever the values referred to in previous item are not elaborated or certified by an impartial entity, the tutelage, together with TradeInvest Timor-Leste and General Directorate of Customs, can establish that, at the expense of the foreign investor, a team of experts or a specialized impartial entity carry out an evaluati suf evisituense of w (pri), the v, qupectby

- ii) Ensuring consistency of the expected new jobs to be created in short and medium term;
  - iii) Establishing interconnection with other economic sectors.
4. The opinion-report of the Foreign Investment Commission with regard to application for foreign investment permit, after duly documented under the terms of law and applicable regulation, must be sent to the tutelage member of the Government, within 25 days from the date of the submission of the application to TradeInvest Timor-Leste.
  5. TradeInvest Timor-Leste can, while evaluating the application and before submission of the opinion-report referred to in the previous number, request the applicant to present supplementary information;
  6. The request for supplementary documents or information, which the previous item refers to, result in suspension of the period established in item 2 of article 13 of present diploma, which will restart as soon as the applicant has submitted the requested documents or information.
  7. Supplementary documents or information referred to in item 5 of present article must be submitted to TradeInvest Timor-Leste within a maximum period of 30 days.

**Article 12**  
**Authorization Proposal**

1. ~~The opinion-report of the Foreign Investment Commission~~ The

- j) Incentives or privileges to be granted and the regime of export of the income generated;
- k) Time limit for the commencement of project implementation, or of each of its stages, when the implementation is staggered;
- l) Availability and the area of land required for implementation of the investment project, according to information from the land registry.

**Article 13**  
**Maximum time limit for the decision**

1. The tutelage member of Government or the Council of Ministers, as the case may be, must make a decision regarding the foreign investment application, based on the opinion of the Foreign Investment Commission, within a maximum period of 5 days from the date the opinion-report of the Commission is sent to the tutelage.
2. In all cases, the final decision regarding the application for foreign investment permit must be made within 30 days from the date of submission of the referred to application to TradeInvest Timor-Leste, without prejudice to terms established in numbers 5 and 7 of article 11 of the present regulation.

**Article 14**  
**Responsibilities**

Approval and authorization of foreign investment applications is the responsibility of:

- a) The Council of Ministers, in cases when one of the following is true:
  - i) The investment project is equal to or greater than 20 million US Dollars;
  - ii) The project requires use of State land with an area equal to or greater than 5 hectares, for tourist purposes or 100 hectares for agricultural, fishery or forestry purposes;
  - iii) Any other project which the tutelage member of Government, because of foreseeable implications of political, social, economic, financial or other nature, considers appropriate to submit to approval and authorization of the Council of Ministers;
- b) The tutelage member of Government, in all cases in which the application is not included within the previous number.

**Article 15**  
**Tacit Authorization**

1. Upon completion of the time limit referred to in number 1 of article 13, when no decision

- b) If unfavorable, shall be considered for all effects, as tacitly rejected, in its precise terms, and TradeInvest Timor-Leste must proceed accordingly, performing the acts foreseen by law and continuing with the other procedures established in the present regulation regarding rejected applications for foreign investment permit.
2. Any other decision made regarding the application, after tacit authorization or rejection referred to in the present article, is null and with no effect.

### **Article 16 Notification of Decision**

1. TradeInvest Timor-Leste must inform the applicant or his legal representative of the decision regarding the application, indicating the substantiating reasons for the decision, and if favorable, the respective terms of the permit, on the following day after the decision is made, or in case of tacit authorization or rejection, on the day following that of the end of the period for decision making by the responsible entity.
2. Notification of granted permission confers the foreign investor the right to immediately start the process of implementation of the authorized project, according to the terms of the respective permit and the present regulation.

### **Article 17 Changes to Terms of Permit**

1. The terms and conditions established in the permit can be altered by the authority which has granted it, when important circumstances such require, upon specific and well founded request of the permit holder or his proxy.
2. Dispositions of the present regulation regarding procedure for application for foreign investment permit are applicable with the necessary adaptations to the procedure for applications referred to in the previous number.

### **Article 18 Rejection of the Application**

1. The applications for foreign investment permission can only be rejected based on the following conditions:



- f) There is no land or natural resources available at the indicated location, and no viable alternative;
- g) There is justified consideration that the implementation of the investment project, which the application refers to, constitutes an unbearable burden for the existing infrastructure or general services in the Country, unless the applicant guarantees, through a protocol with the Government, that will support the expenses related to the installation or reinforcement of such infrastructures or services and their functioning for a minimum period of 5 years;
- h) The applicant has manifest lack of competence, technical or financial capacity for implementing and realizing the operations/TT0 1 Tf07 0 eL -00.0015 Tc -0.0002(e exp1hueaL t)5(dexp i)6

- c) Documents proving legal existence of the company in which investment from foreign sources has been made;
  - d) Documents, issued by appropriate fiscal entity, proving that there are no overdue tax payments, both in relation to the applicant and the company object of the investment;
  - e) Bank references related to the company;
  - f) Report and balance of the latest economic year, as well as existing catalogues, pamphlets and other publications demonstrating activities carried out by the company, in the Country;
  - g) “Curriculum Vitae” of the person or main persons responsible for the company;
  - h) Documents proving appointment of manager or board of directors;
  - i) Documents demonstrating the investments already made, discriminating and specifying for each investor the amount of investment, whether in the form of capital, supplements, loans, supply of equipment and other material goods or other specified forms;
  - j) Copy of agreement between shareholders, when applicable;
3. The procedures established in the present regulation for processing and decision making regarding application for foreign investment permits apply, with the necessary adaptations, to the applications referred to in the present article.

### **Section III Registration**

#### **Article 21 Registration of Authorized Foreign Investment**

1. Once application for foreign investment is authorized, TradeInvest Timor-Leste shall proceed and register it, attributing a number, according to the registration sequence.
2. Registration must be signed by the Executive Director of TradeInvest Timor-Leste and must be kept with necessary care in archives of TradeInvest Timor-Leste, for consultation by any

2) The registration process shall include the following:

a) Copies of official documents and authorization certificates issued in the name of the

- a) Verify compliance with the terms of the investment permit, Foreign Investment Law, present regulation and other applicable legislation, by investor;
- b) Request information regarding evolution of each foreign investment and export project from the investor, manager or company board of directors;
- c) Make site supervision visits to verify the status of each specific enterprise.

**Article 27**  
**Benefit from Incentives**

Benefit from incentives and privileges established by law in favor of foreign investor are subject to prior confirmation by TradeInvest Timor-Leste:

- a. In case of customs incentives, upon presentation of the receipt proving acquisition of goods and materials in question;
- b. In case of fiscal incentives, upon presentation, to appropriate public services

- 2) Upon reception of complaint, TradeInvest Timor-Leste must, within 7 days, submit it to the appropriate entity, requesting evaluation of the complaint and measures for its resolution.
- 3) If there is no response or measures for resolution of the complaint presented under the terms of the previous number, within 15 days from the date the aforementioned request is made, TradeInvest Timor-Leste must redirect the matter for consideration and decision to the tutelage, founded on lack of response from the public organ or service to which the complaint was sent.
- 4)

**Article 34**  
**Responsibility for Revoking**

Revoking of foreign investment permits is of the responsibility of the entity which, under the terms of present regulation, has granted it.

**Article 35**  
**Returning the Foreign Investor's Certificate**

In all cases of caducity or revoking of foreign investment permit, the investor must return the foreign investor's certificate to TradeInvest Timor-Leste within 15 days from the date of caducity or notification of permit's revoking.

**Article 36**  
**Notification**

The decision to revoke foreign investment permit in terms of present regulation or its caducity shall be immediately communicated to all relevant public administration services.

**Article 37**  
**Effects of Caducity or Revoking**

Caducity or revoking of foreign investment permit result in automatic loss of rights, incentives and privileges in terms of Foreign Investment Law and the present regulation.

**Chapter VI**  
**Resolution of Disputes**

**Article 38**  
**Procedures**

- 1) If another procedure is not established by international agreements, which Timor-Leste is a part of, or in agreements between the Democratic Republic of Timor-Leste and that of the foreign investor, the disputes which result from application or interpretation of Foreign Investment Law or the present regulation, as well as from implementation of the project or operation of the business unit of the foreign investment are submitted to the process of conciliation according to Timorese law.
- 2) When there is a dispute, which, in terms of previous number, can be submitted to conciliation, the foreign investor has the right to request the tutelage member of Government to establish the procedure of conciliation to resolve the dispute, and the tutelage must appoint, within 7 days from the date of the receipt of investor's request, the Government representative in the conciliation commission.
- 3) The conciliation commission is composed of the representative of the tutelage, the investor or his proxy and must achieve a resolution for the dispute within a maximum period of 30 days from the date of appointment of the Government representative.
- 4) If within the time limit defined in item 2 of present article, the tutelage member of Government does not appoint the Government representative in the conciliation commission, or the conciliation commission having been formed, does not reach a definite solution for the dispute within the time period referred to in previous item, any of the parties have the right to institute the process of arbitration according to the rules of the International

Convention for Resolution of Disputes Regarding Investments between States and Citizens  
of Other States.

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(Mari Bim Amude Alkatiri)



**APPLICATION FOR RECOGNITION AS A FOREIGN INVESTOR**

**1. IDENTIFICATION OF THE INVESTOR:**

Natural Person                       Company

Name of the person:.....

Name of the Company: .....

Nationality: .....

Place of registration of the company:.....

Address of the person:.....

Company operational headquarters .....

Telephone (s) .....

Fax: .....                      Email: .....

Previous experience / References on technical capability .....

.....

.....

Bank references and other information about financial capacity .....

.....

.....

Name of the legal representative: .....

Position of the legal representative: .....

**2. IDENTIFICATION OF THE COMPANY THAT WILL BE MAKING A FOREIGN INVESTMENT OPERATION**

**Company name:** .....

**Type of Company:** .....

- **Location of company's headquarters** .....

Or:

- **To be built at:** .....

**Company :** ..... **Delegation:** .....

**Article of association published in the "Jornal da República" number:** .....

**Published on:** .....

**Headquarters (according to the article of association):** .....

**Telephone (s)** ..... **Fax** .....

**Company's purpose/ main activity:** .....

**List of goods to be produced and/or services to be provided:** .....

.....

**Sector of activity:** .....

**Approximate date for commencement of activities:** .....

**Date for commencement of construction work (if that is the case):** .....

**Approximate date for termination of construction work:** .....

**Company sales forecast, domestic market:**

Product (s)	Quantity			Value FOB		
	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
1.						
2.						
3.						
4.						
5.						
<b>Total</b>						

**Company sales forecast, exports:**

<b>Product (s)</b>	<b>Quantity</b>			<b>Value FOB</b>		
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
<b>1.</b>						
<b>2.</b>						
<b>3.</b>						
<b>4.</b>						
<b>5.</b>						
<b>Total</b>						

**Jobs to be created, by category**

**Category (ies)**

**Initial value of the investment in USD**

<b>Item</b>	<b>Value</b>
<b>1. Equipment</b>	
<b>2. Raw Material</b>	
<b>3. Land</b>	
<b>4. Buildings</b>	
<b>5. Operational capital</b>	
<b>6. Other</b>	
<b>Total</b>	

**Type and initial value of the investment in USD**

**Type**

**1.88**

**Planned treatment of afore mentioned wastes:** .....

.....  
.....  
.....

**Forms of financing the investment:** .....

.....

<b>Form</b>	<b>Value</b>
<b>1. Company's share capital</b>	
<b>2. Long term loans</b>	
<b>3. Medium term loans</b>	
<b>4. Short term loans</b>	
<b>5. Loans and other complementary lending by the members</b>	
<b>Total</b>	

**Estimated annual expenses:**

<b>Item</b>	<b>Expenses in the Country</b>			<b>Expenses Abroad</b>		
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
<b>1. Raw materials</b>						
<b>2. Subsidiary material</b>						
<b>3. Wages</b>						
<b>4. Services</b>						
<b>5. Rents</b>						
<b>6. Financial expenses</b>						

#### **4. CHECKLIST OF ANNEXES INCLUDED WITH THE PROCESS**

**Summary description of the project:**

Yes .... No ....

**Identification of the promoters, their professional/business curriculum:**

Yes .... No ....

**Copies of Contracts:**

Yes .... No ....

**Bank credentials:**

Yes .... No ....

**Business plan:**

Yes .... No ....

**Land ownership documents:**

Yes .... No ....

**Map of location:**

Yes .... No ....

**Project draft (s):**

Yes .... No ....

**Estimates for the construction works:**

Yes .... No ....

**Specialty projects:**

Yes .... No ....

**Environmental Impact Study:**

Yes .... No ....

**Receipt of the “request processing fee” (100 USD):**

Yes .... No ....



**CERTIFICATE OF FOREIGN INVESTOR, NUMBER .../ ...**

**Title holder's name / Company designation:** .....

.....

**Nationality/ Country of registration:** .....

**Address /company headquarters:** .....

**Passport/ Identification card number:** ..... **Issued in:** .....

**Place and date of issue:** .....

**Name of the foreign investment operation:** .....

.....

.....

**Name of entity/ company receiving the foreign investment:** .....

.....

.....

**With headquarters in:** .....

**The economic activities will begin by:** .....

The present document certifies that, according to the terms of Law N° 5/2005 of 7<sup>th</sup> of June 2005, the above mentioned entity is duly authorized to carry out foreign investment in conformity with request N° .../..., benefiting from all rights, guarantees and incentives, and subject to all obligations foreseen in the terms of the above mentioned Law.

It is requested, from all public entities before whom this certificate might be produced, that the matters presented by the title holder be treated with due celerity and diligence, with respect for the applicable legal dispositions.

City of Dili, ..... of ..... , .....

The Minister,

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