



# Customs Authority

## Commissioner's Administrative Instruction

### CUSTOMS AND TRADE CONSULTATIVE COMMITTEE (CTCC), TERMS OF REFERENCE (TORS) -2022

Administrative Instruction Number 115 of 15 / Agosto / 2022

## **1 Commissioner's Administrative Instruction Title**

This Administrative Instruction will be officially known as the Customs Authority:

**"Customs and Trade Consultative Committee (CTCC) Terms of Reference (TORs) - 2022"**

## **2 Scope**

This Administrative Instruction applies to the functioning of the "Customs and Trade Consultative Committee, as described in the TORs contained herein.

## **3 Authorization**

The Commissioner of the Customs Authority issues this Administrative Instruction in accordance with Customs Organic Law, Decree Law 2/2020, Chapter III, (Customs Authority Commissioner), Article 9 (1c), that allows the Commissioner to: *"approve the administrative norms and / or instructions necessary for the operation of the Customs Authority, including in terms of application, customs legislation".*

## **4 Administrative Instruction Validity and Changes**

This Administrative Instruction comes into effect on the date the Commissioner signs and dates it in **Section 9** of this Administrative Instruction. Any changes to this Administrative Instruction must be approved by the Commissioner and subsequently circulated to all Customs personnel and all stakeholder groups identified in the CTCC TORs, prior to being enforced.

## **5 Objectives of this Administrative Instruction**

The objectives of this Administrative Instruction are to provide clear instructions on:

- a) who, within the Customs Authority, is responsible for applying the provisions contained within this Administrative Instruction; and
- b) the responsibilities of clients who participate in the CTCC, as described in the TORs.

## **6 When this Administrative Instruction Applies**

The provisions and associated annexes contained within this Administrative Instruction apply to the establishment and operation by the Customs Authority of a formal consultation mechanism called the "Customs and Trade Consultative Committee", its background and associated Terms of Reference (TORs).

## 7 Responsibility for Implementing this Administrative Instruction

The implementation of this Administrative instruction falls primarily on the *Commissioner of the Customs Authority*, who is responsible for:

- a) Act as a Chair of the CTCC, invite organizations to nominate members, call for meetings, endorse decisions and perform other responsibilities, as described in CTCC TORs;
- b) Delegate the organization of meetings, preparation of agendas, circulation papers and other secretariat activities to the *Director of Institutional Relations and Communications Unit (IRCU)*;
- c) Promote with National and Unit Directors good relationship with clients and the adoption of suggested improvement in Customs procedures and/or activities endorsed by the CTCC;
- d) The implementation and standardized application of all the provisions in this Administrative Instruction in all relevant Customs areas nationally;
- e) Making available to Customs staff and clients a copy of this Administrative Instruction.

## 8 Compliance with this Instruction

Once approved, the provisions contained within this Administrative Instruction and all associated annexes, must be:

- applied by all Customs staff, and
- be followed by CTCC members, in regards to the Customs processes and/or activities they participate, as required in the CTCC TORs.

## 9 Commissioner's Approval, Directives and Dissemination

By the authorization conferred to me under Article 9.1, (c) of the Organic Customs Law, Decree Law 02/2020, I hereby:

- a) **Approve** this Administrative Instruction known as the, "**Customs and Trade Consultative Committee, Terms of Reference, 2022**";
- b) **Recommend** that all CTCC permanent trade members/ representatives, invited members and occasional participants to abide by this directive and to follow all its protocols;
- c) **Direct** that this Administrative Instruction be communicated to all CA staff, and for all relevant CA staff to implement, apply and enforce all parts of this Administrative Instruction, as described;
- d) **Direct** that this Administrative Instruction be published in the Customs website and be communicated to all identified client groups in the TORs; and
- e) **Direct** that this Administrative Instruction shall come into effect on day after the signed date below.

Signed on the 15 day of 8.....2022



**Jose Abilio**

Commissioner

Customs Authority

Timor-Leste

(official Customs seal)



## **ANNEX 1: BACKGROUND AND SCHEDULE OF ACTIVITIES**

### **Background**

In order to carry out its core functions, the Customs Authority (CA) has numerous informal contacts and discussions with individuals and organizations involved in Timor-Leste's international trade supply chain. While these discussions may be frequent, they are usually ad hoc, problem solving driven and limited to the individual trader group affected by the problem or issue at hand.

In the current Timor-Leste environment, where CA is undergoing a process of reform, implementation of the Customs Code DL 14/2017, other legislation and an array of new Standard Operating Procedures, there are many issues that need to be discussed between Customs and its trade clients in a more formal and regular manner. CA understands that there is a need to establish a mechanism that provides the opportunity for frank and open discussions with the trading community and adopt a model similar to those already in place in many Customs administrations around the world, but that it takes into account the business reality in Timor-Leste and at the same time complies international standards, in particular with:

- a) World Customs Organization SAFE Framework of Standards to Facilitate Global Trade (2012).
- b) Article 51, a (ensure predictability, consistency and transparency in the application of Customs laws) - ASEAN Trade in Goods Agreement (ATIGA);
- c) Article 7 (Release and Clearance of Goods) and Article 10.3 (Use of International Standards) – World Trade Organization Trade Facilitation Agreement (2013); and
- d) Chapter 6 (Customs Control) – World Customs Organization, Revised Kyoto Convention (2001).

The CA has taken into account the work and focus of consultation models used in other countries, for example, in Australia, UK, New Zealand, Canada, Ireland, Papua New Guinea, several EU countries, Japan, South Korea and Malaysia. The names of these models vary from country to country, but in a large number of English-speaking countries they tend to be called Consultative “Committees” or “Panels”.

The common denominator of these committees is that they are a formal and regular consultation forum between Customs and private sector trade organizations involved in the import/ export supply chain. These organizations usually include chambers of commerce, importer/ exporter associations, transporters (sea, air, and land), freight forwarders, international couriers, customs

brokers and others. In general, permanent representation in these committees by other public service agencies is limited, although participation by invitation on specific subjects is often arranged.

In line with the above background, the CA proposes the creation of a formal “Customs and Trade Consultative Committee (CTCC)”. To this effect the CA proposes the following program for the implementation of such committee and its Draft Terms of Reference (TORS).

### **Schedule of Activities 2021 to 2022**

1. **2021.**-The Customs Authority’s Commissioner sends to trade organizations a Draft Terms of Reference (TORS) for the establishment of a Customs and Trade Consultative Committee and requests written comments and feedback on this Draft, within seven (7) business days;
2. **2021**- The trade organizations/ groups that have been contacted by CA formally nominate one (1) representative each, in accordance to the Draft TORS, providing the following details:
  - Organization/ group name;
  - Full physical address of organization/group and website (if any);
  - Full name of proposed representative;
  - Email address of representative; and
  - Contact telephone/ mobile of representative.

Nominations must also be sent to Customs, within seven (7) business days, together with the comments / feedback on the Draft TORS at paragraph 1, above.

3. **2022.**-A formal face-to-face meeting takes place from **8.45 am on Wednesday 10 August 2022** for a discussion on the comments received on the Draft TORS from Committee’s membership and for discussion on other proposed Agenda topics.
4. **2022.** The CA Commissioner formally issues and Administrative Instructions approving the CTCC and its TORS and invite participant trade organizations to attend the inaugural Meeting of the Committee (date to be agreed with stakeholders).

## **ANNEX 2: TERMS OF REFERENCE**

### **1. Creation and Date of Effect**

The Timor-Leste Customs Authority (CA), taking in consideration the need to formalize and improve its relations and communication with trade organizations involved in the import/ export business hereby creates a consultation and dialogue forum to be called “**Customs and Trade Consultative Committee**”.

The establishment of this Committee shall become effective on the day the Commissioner approves and signs these Terms of Reference (TORs).

### **2. Functions**

- a) The Committee is primarily an advisory body that provides a two-way forum for the CA, and representatives of participant trade organizations and Other Government Agencies (OGAs) to discuss strategic and operational Customs related issues which affect the Timor-Leste trading community.
- b) The Committee is a non-permanent organization, as such it does not have the power to change laws, regulations or procedures, nor does it exercise any executive power or financial responsibility, but their recommendations would inform Customs Management decisions.
- c) The Committee can discuss, review and make recommendations on policies, procedures, joint initiatives and the application of laws, regulations and Administrative Instructions that may affect imports, exports and transit.

### **3. Responsibilities**

The Committee responsibilities are:

- (a) to enhance the constructive dialogue and exchange of ideas between the CA and the trade community on issues related to the customs legislation, procedures, compliance, trade facilitation, transparency and difficulties related to the goods importation, exportation and transit;
- (b) to raise awareness among the trade community regarding the activities and policies promoted by the CA;



- (c) to obtain trade views on any new initiatives, procedures or legislation to be introduced by the CA and to evaluate the possible impact of such initiatives on the stakeholders' activity;
- (d) to ensure consistent enforcement and observance of the customs regulations by the participants in international trade and to promote "honest payment of the revenue that is legally due";
- (e) to examine particular problematic situations in order to determine the current barriers and to identify optimal solutions;

#### **4. Frequency of Meetings**

The Committee will meet at least every two months in Dili. Additional meetings will be scheduled at the discretion of the Chair. These meetings may be either presental or virtual.

#### **5. Membership and Protocols**

##### **Membership**

- 5.1. The Committee is chaired by the Commissioner of the CA.
- 5.2. The Committee is Co-chaired by the President of the Chamber of Commerce and Industry, Timor-Leste (CCI-TL).
- 5.3. Membership is at the Chair's discretion and will be extended to one (1) representative of each trade organization.
- 5.4. Membership to the Committee will be for a period of two (2) years, counted from the date the Commissioner of the Customs Authority issues a Directive approving the CTCCT TORs, under Article 9 c) of DL 02/2020.
- 5.5. Trade groups identified by the Chair are free to nominate one (1) of their members as representative to the Committee. It is the group's responsibility to ensure that such a person has appropriate knowledge and skills and that he/she would report back to them the issues discussed at the Committee and of any decisions made.
- 5.6. Those trade groups, within the importing/ exporting community, that at the moment do not have an association are encouraged to either create/ form an entity to be able to nominate a representative to the Committee, or simply nominate a person to represent them at the Committee, under the same guidelines at 5.4 above.
- 5.7. Should any trade group have a disagreement over the nomination of a representative, they should resolve the matter internally, and before their participation in the



Committee is due. If the matter is not resolved by the group, then the Chair may consider suspending the membership of this group until they agree on a nominee.

- 5.8. The Chair will give special membership – based on issues discussed at the Committee -to OGAs that participate in the clearance or processing of imports, exports or transit transactions. These OGAs may nominate one (1) representative each.

- 5.9. From time to time and on specific needs, the Chair may also extend ad hoc invitations for a specific Committee's meeting to a representative from another Ministry, or International Organization.

- 5.10. CA International or local Technical Advisors may also be invited by the Chair to support or participate the meetings, but they will not have the right to vote.

- 5.11. The Committee's permanent membership is as follows:

a) Customs Authority

- CA Commissioner, Chair;
- CA National Director of Operations - member and Deputy Chair;
- CA Director of Institutional Relations and Communications Unit (IRCU);
- Other CA Directors, by invitation of the Chair, depending on the subject matter being discussed;
- Committee secretariat: IRCU office.

b) Trade Organizations

- 1 member and Co-Chair – President of the Chamber of Commerce and Industry of Timor-Leste (CCI-TL);
- 1 member – Customs Brokers Association;
- 1 member – Business Women Association of Timor-Leste (Associação Empresarial das Mulheres de Timor-Leste);
- 1 member - representing bonded warehouses licensed operators;
- 1 member – representing the Temporary Storage licensed Operators;
- 1 member – representing Sea Cargo carriers;
- 1 member – representing the Land Transport Operators;
- 1 member – representing the Air Cargo Carriers;

- 1 member – representing the International Express Carriers;
- 1 member – representing Tilbar Port operator -Timor Port (President or other senior manager);
- 1 member - representing other organizations involved in International trade not included above. These may nominate one (1) representative each, as per section 5.6 above;

c) Special Membership (non – permanent);

- 1 member each – representing OGAs invited by the Chair.

**Protocols**

- 5.12. Upon formal invitation from the Chair, trade organizations will submit to the Committee secretariat (IRCU) the name of their nominee.
- 5.7. The Committee will not accept representations on behalf of, or consider matters relating to, individual persons or cases.
- 5.8. Only one (1) representative from each member organization can attend meetings, but an observer may be granted access, upon request to the Chair, to support a member requiring additional representation for a particular subject area.
- 5.9. Members of the Committee must ensure that they have channels of communication in place with the membership of their organization, in relation to the work of the Committee. These channels should be used to disseminate matters of interest to that membership and to enable that membership to bring issues before the Committee.
- 5.10. The Chair will periodically review the membership of the Committee to ensure that it continues to meet its functions and responsibilities.
- 5.11. Organizations will also be asked to review their nominees from time to time to ensure effective representation on the Committee.
- 5.12. CA permanent and invited representatives, as well as its technical advisors, will provide expertise to each meeting, relevant to the agenda items.

## 6. Working Groups

The Committee may establish Working Groups to examine specific issues (e.g. special interest groups, technical issues related to automation, procedures, legislation, licensing, etc.). Any Working Group will agree its own working arrangements and can have broader representation, but will adhere to broad guidelines and reporting dates given by the Committee.

## 7. Administrative Arrangements

The following administrative arrangements will apply to the Committee:

- a) The CA will provide the Secretariat to the Committee;
- b) Presental meetings will usually be held at least every two (2) months, but this may be varied if additional meetings are considered necessary by Committee members;
- c) On line “virtual meetings” may also be called, using Zoom or Google Meet. This may be the case during the COVID 19 pandemic, but may also be used in other cases;
- d) To expedite communication with its members, the Committee will use email to call for meetings, to issue reminders and to circulate agendas and papers;
- e) It is the responsibility of each member to provide the Secretariat with a working and correct email address and other contact details, as no hard copies of invitations and of Agenda papers will be sent;
- f) One month before each meeting the CA secretariat will circulate a reminder email of the upcoming meeting;
- g) Agenda items may be proposed by the Chair or any of the Committee members, within the broad topics that fall within the agreed functions of the CTCC. However, the Chair may limit the number of agenda items to be examined during a particular meeting to ensure key topics are discussed;
- h) The draft Agenda for each meeting will be circulated by email, no later than two weeks before the date of the meeting. The draft Agenda will include significant items to be discussed;
- i) Members will be free to raise issues under “Other Business” at the meeting, although detailed discussion may not be possible at that particular meeting;
- j) Documents for discussions will be circulated by email, as early as possible prior to the meeting, but no later than three (3) working days before the date of the meeting;
- k) A draft Summary Report of each meeting will be circulated to members in soft copy by email no later than seven (7) working days after the meeting, with ten (10) working days allowed thereafter for comments and observations.

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