

Decree-Law No. 87/2022**December 14th****First amendment to Decree-Law No. 14/2017, of 5 April, Customs Code**

Timor-Leste's accession process to the World Trade Organization is at an advanced stage and should be completed by the end of 2022.

Within the scope of the aforementioned accession process, it is necessary to align national legislation with the common legal framework that governs that organization and its members, with some of the changes being qualified as conditions precedent for accession.

Among these changes is the alignment of national customs legislation with the Agreement on the Application of Article VII of the 1994 General Agreement on Tariffs and Trade (*Agreement on Implementation of Article VII of General Agreement on Tariffs and Trade 1994*), also commonly referred to as the Customs Valuation Agreement (*Customs Valuation Agreement*).

The national customs legislation currently in force is consolidated in the Customs Code, approved by Decree-Law No. 14/2017, of April 5.

The aforementioned Code already considered the international commitments to which Timor-Leste was bound, namely those resulting from membership of the World Customs Organization, of which Timor-Leste has been a member since September 19, 2003.

Anticipating Timor-Leste's intention to join the World Trade Organization, the Customs Code also implemented the legal framework that governs the said organization and its members, including the above-mentioned Agreement on Customs Valuation.

In fact, articles 97 and following of the Customs Code, and the respective table 1, already provide for the transactional value as the main method for determining the customs value, subject or not to adjustments, without prejudice to the application of subsidiary methods and the method residual, provided for in that agreement.

However, Table 1 of the Customs Code transposes, in a more simplified form and in a different order, certain provisions of the Agreement on Customs Valuation, and in this simplification exercise, there are provisions that have not been fully or expressly transposed into the domestic legal system.

At issue, namely, are the transpositions of paragraph a) of paragraph 2 of article 1 of the said Agreement, under the terms of which the fact that the exporter and the importer are related parties should not constitute, in itself, a to disregard the transaction value as a general rule for determining the customs value of goods, and paragraph c) of paragraph 2 of article 1, which provides that the determination of the customs value of identical or similar goods serves

only as a comparative term to determine whether the transaction value between related parties is acceptable or not, and cannot be automatically used as a replacement customs value.

On the other hand, Table 1 of the Customs Code reordered and merged several provisions of the Agreement on Customs Valuation, which makes it difficult to apply the Interpretative Notes contained in Annex I of that Agreement.

This amendment aims to ensure that table 1 of the Customs Code accurately reflects the content of the Agreement on Customs Valuation, including its Annex I.

In this way, the aforementioned condition precedent for accession to the World Trade Organization and Article 22 of the Agreement on Customs Valuation are complied with, under which each member of the Organization ensures compliance with its laws and regulations, as well as with the respective administrative procedures, with the provisions of the relevant agreement.

The Government enacts, pursuant to subparagraph o) of paragraph 1 of article 115 and subparagraph d) of article 116 of the Constitution of the Republic, to be valid as law, the following:

**Article 1
Object**

This diploma makes the first amendment to Decree-Law No. 14/2017, of April 5, Customs Code.

**Article 2
Change**

Table 1 of the Customs Code, approved as an annex to Decree-Law No. 14/2017, of April 5, is replaced by the wording set out in the annex to this diploma.

**Article 3
Implementation**

This diploma comes into force on the day following its publication.

Approved by the Council of Ministers on November 4, 2022.

The Prime Minister,

TaurMatan Ruak

The Minister of Finance,

Rui Augusto Gomes

Enacted on 11/29/2022

Publish yourself.

The President of the Republic,

José Ramos-Horta

ATTACHMENT
(as referred to in Article 2)

TABLE 1
(as referred to in Article 98)

**CUSTOMS VALUE OF GOODS
IMPORTED**

Interpretation, application and definitions

The provisions of this table must be read and applied in accordance with the instruments that bind the Democratic Republic of Timor-Leste internationally, namely the Interpretative Notes contained in Annex I to the Agreement on the Application of Article VII of the 1994 General Agreement on Tariffs and Trade (*Agreement on Implementation of Article VII of General Agreement on Tariffs and Trade 1994*), which form an integral part of it.

1. In this table:

- a) The expression “customs value of imported goods” means the value of goods determined with a view to the collection of customs duties *ad valorem* on imported goods; and,
- b) The term “produced” also means cultivated, manufactured or extracted.

2. In this table:

- a) The expression “identical goods” means goods that are the same in all respects, including physical characteristics, quality and commercial prestige. Small differences in appearance do not preclude goods which otherwise conform to the definition from being considered identical;

b) The term “similar goods” means

goods which, without being the same in all respects, have similar characteristics and are composed of similar materials, enabling them to fulfill the same functions and to be commercially interchangeable. The quality of the goods, commercial prestige and the existence of a brand are elements to be taken into account in determining whether the goods are similar;

c) The expressions “identical goods” and “similar goods” do not apply to goods that incorporate or contain, as the case may be, engineering, study, art or *design*, or plans and sketches, for which no adjustment has been made pursuant to subparagraph iv) of subparagraph b) of paragraph 1 of article 8 of this table, due to the fact that these works have been carried out in Timor-Leste. East;

d) Only goods that have been produced in the same country as the goods to be valued will be considered “identical goods” or “similar goods”.

e) Goods produced by a different person will only be taken into account when there are no identical goods or similar goods, as the case may be, produced by the same person who produced the goods to be valued.

3. In this table, the expression “goods of the same nature or of the same kind” designates goods classified in a group or range of goods produced by a specific branch of production or by a specific sector of a branch of production and includes identical goods or similar.

4. For the purposes of this table, people will only be considered affiliated:

- a) If one is part of the management or board of directors of the company of the other and reciprocally;
- b) If they legally have the status of partners;
- c) If one is the employer of the other;
- d) If one owns, controls or holds directly or indirectly 5% or more of the shares or securities issued with voting rights in both;
- e) If one of them directly or indirectly controls the other;
- f) If both are directly or indirectly controlled by a third person;
- g) If, together, they directly or indirectly control a third person; or,
- h) If they are members of the same family.

5. Persons who are associated in business with each other because one is the agent, distributor or

exclusive concessionaire of the other, regardless of the designation used, shall be considered related for the purposes of this table if they meet one of the criteria set out in paragraph 4.

Article 1

Transaction value as the primary basis of valuation

1. The customs value of imported goods is the transactional value, that is, the price actually paid or payable for the goods when they are sold for export to Timor-Leste, adjusted in accordance with the provisions of article 8, provided what:
 - a) There are no restrictions on the assignment or use of the goods by the buyer, other than the restrictions that:
 - i. Are imposed or required by law or national authorities;
 - ii. Limit the geographical area in which goods can be resold; or,
 - iii. Do not substantially affect the value of the goods;
 - b) The sale or price is not subject to conditions or benefits whose value cannot be determined in relation to the goods to be valued;
 - c) No part of the proceeds of any resale, assignment or further use of the goods by the buyer revert directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of article 8; and,
 - d) The buyer and seller are not affiliated or, if they are, that the transaction value is acceptable for customs purposes under the terms of paragraph 2.

two.

- a) To determine whether the transactional value is acceptable for the purposes of applying paragraph 1, the fact that the buyer and the seller are related within the meaning of the introductory part of this table does not, in itself, constitute sufficient reason to consider the value unacceptable transactional. In such case, the circumstances of the sale will be examined and the transaction value will be accepted as long as this combination has not influenced the price. If, taking into account information provided by the importer or obtained from other sources, the Customs administration has reason to believe that the related relationship has influenced the price, it shall communicate its reasons to the importer and give him a reasonable opportunity to respond. If the importer so requests, the reasons will be communicated to him in writing;
- b) In a sale between related parties, the transaction value will be accepted and the goods will be valued in accordance with the provisions of paragraph 1 when the

importer demonstrates that said value is very close to one of the following values, at the same time or at a very close time:

- i. Transactional value on sales to unrelated buyers of identical or similar goods for export to Timor-Leste;
- ii. Customs value of identical or similar goods, as determined by application of the provisions of article 5;
- iii. Customs value of identical or similar goods, as determined by application of the provisions of article 6;

In applying the above criteria, due account will be taken of any demonstrated differences between the commercial levels, quantities, elements listed in Article 8 and the costs borne by the seller in sales where he and the buyer are not related, and which the seller does not support sales in which he and the buyer are related;

- c) The criteria set out in point b) of paragraph 2 are intended to be used on the initiative of the importer and only for comparison purposes. Under the terms of subparagraph b) of paragraph 2, replacement values cannot be established.

Article 2

Transaction value of identical goods as value customs

1.
 - a) If the customs value of the imported goods cannot be determined by application of the provisions of article 1, the customs value will be the transactional value of identical goods, sold for export to Timor-Leste and exported at the same time as the goods to be evaluated or at a very close moment;
 - b) Upon application of this article, the customs value will be determined using the transactional value of identical goods, sold at the same commercial level and in roughly the same quantity as the goods to be valued. In the absence of such sales, recourse will be had to the transactional value of identical goods, sold at a different commercial level and/or in different quantities, adjusted to take into account differences attributable to the commercial level and/or quantity, provided that such adjustments, irrespective of whether they imply an increase or decrease in value, are carried out on the basis of evidence that clearly attests that they are reasonable and accurate.

2. When the costs and expenses referred to in paragraph 2 of article 8.º are included in the transaction value, this value will be adjusted to take into account appreciable differences

of these costs and expenses between the imported goods and the identical goods considered, resulting from differences in distances and modes of transport.

3. If, when applying this article, more than one transactional value of similar goods is determined, the lowest transactional value will be used to determine the customs value of the imported goods.

Article 3

Transaction value of similar goods as value customs

1.
 - a) If the customs value of imported goods cannot be determined by applying the provisions of articles 1 and 2, the customs value will be the transactional value of similar goods sold for export to Timor-Leste and exported in same time as the goods to be valued or at a very close time;
 - b) When applying this article, the customs value will be determined using the transactional value of similar goods, sold at the same commercial level and in roughly the same quantity as the goods to be valued. In the absence of such sales, recourse will be had to the transactional value of similar goods, sold at a different commercial level and/or in different quantities, adjusted to take into account differences attributable to the commercial level and/or quantity, provided that such adjustments, regardless of the fact that they imply an increase or decrease in value, are carried out on the basis of evidence that clearly attests that they are reasonable and accurate.
2. When the costs and expenses referred to in paragraph 2 of article 8.º are included in the transactional value, this value will be adjusted to take into account appreciable differences in these costs and expenses between the imported goods and the similar goods considered, resulting from differences in distances and modes of transport.
3. If, when applying this article, more than one transactional value of similar goods is determined, the lowest transactional value will be used to determine the customs value of the imported goods.

Article 4

subsidiary methods

If the customs value of imported goods cannot be determined by applying the provisions of articles 1, 2 and 3 of this table, the customs value will be determined by applying the provisions of article 5 or, when the customs value cannot be determined by application of that article, by application of the provisions of article 6; however, with written authorization from the national authorities, at the request of the importer, the order of application of articles 5 and 6 may be reversed.

Article 5

Deductible value as customs value

1.
 - a) If imported goods or identical or similar imported goods are sold in Timor-Leste in the same state in which they were imported, the customs value of the imported goods, determined by application of the provisions of this article, shall be based on the unit price sale of imported goods, or identical or similar imported goods, totaling the highest quantity, provided they are made to persons not related to the sellers, at the time or very close to the time of importation of the goods to be valued, subject to the following deductions :
 - i. Commissions generally paid or agreed upon, or margins generally practiced for profits and general expenses relating to sales, in Timor-Leste, of imported goods of the same nature or of the same kind;
 - ii. Usual transport and insurance expenses, as well as related expenses incurred in Timor-Leste;
 - iii. If applicable, other costs and expenses listed in Article 8(2); and,
 - iv. Customs duties and other national charges payable in Timor-Leste due to the importation or sale of goods;
 - b) If neither the imported goods nor identical or similar imported goods are sold at the time or very close to the importation of the goods to be valued, the customs value will be based, subject to the provisions of paragraph a) of paragraph 1, on the price unit to which the imported goods or identical or similar imported goods are sold in Timor-Leste, in the same condition in which they were imported, on the earliest date after the importation of the goods to be valued, but before 90 days after such importation.
2. If neither the imported goods nor identical or similar imported goods are sold in Timor-Leste in the same state in which they were imported, the customs value will be based, regardless of the importer's request, on the unit selling price of the imported goods totaling the highest quantity, made after additional manufacturing or further processing by persons not related to the sellers, in Timor-Leste, duly taking into account the value added by the additional manufacturing or processing and the deductions provided for in paragraph a) of paragraph 1.

Article 6
Value calculated as customs value

1. The customs value of imported goods, determined pursuant to the provisions of this article, shall be based on a calculated value. The calculated value will be equal to the sum:
 - a) The cost or value of materials and manufacturing or other operations used or carried out to produce the imported goods;
 - b) An amount representative of profits and overheads, equal to that which is generally accounted for in sales of goods of the same nature or of the same kind as the goods to be valued, made by producers in the country of export for export to Timor -East;
 - c) The cost or value of other expenses that must be taken into account pursuant to paragraph 2 of article 8.
2. National authorities may not order or oblige a person not resident in their territory to present accounting documents or other documents for examination or to allow access to accounting documents or other documents, with the aim of determining a calculated value. However, the information communicated by the producer of the goods, for the purpose of determining the customs value pursuant to the provisions of this article, may be verified in another country by the national authorities, with the agreement of the producer and provided that the national authorities notify, with the sufficient notice, the government of the country concerned and that the latter does not oppose the inquiry.

Article 7
Residual valuation basis

1. If the customs value of imported goods cannot be determined by applying the provisions of articles 1 to 6, it will be determined by reasonable criteria compatible with the principles and general provisions of this table and article VII of the General Agreement on Tariffs and Trade 1994 (*General Agreement on Tariffs and Trade 1994*) and based on data available in Timor-Leste.
2. The customs value determined pursuant to the provisions of this article shall not be based on:
 - a) In the sale price, in Timor-Leste, of goods produced in Timor-Leste;
 - b) In a system that foresees the acceptance, for customs purposes, of the highest of two possible values;
 - c) The price of goods on the domestic market of the exporting country;
 - d) In the cost of production distinct from the constructed values that have been determined for goods

identical or similar in accordance with the provisions of Article 6;

- e) In the price of goods sold for export to a country other than Timor-Leste;
 - f) In minimum customs values; or,
 - g) In arbitrary or fictitious amounts.
3. If the importer so requests, he will be informed in writing of the customs value determined by application of the provisions of this article and of the method used to determine it.

Article 8
Adjustment of price paid or payable

1. To determine the customs value pursuant to the provisions of article 1, the following shall be added to the price actually paid or payable for the imported goods:
 - a) The following elements, in so far as they are borne by the buyer but have not been included in the price actually paid or payable for the goods:
 - i. Commissions and brokerage fees, with the exception of purchase commissions;
 - ii. Cost of containers which, for customs purposes, are considered as a whole with the goods;
 - iii. Cost of packaging, including labor as well as materials;
 - b) The value, properly allocated, of the following products and services when supplied directly or indirectly by the buyer, free of charge or at reduced cost, and used in the production and sale for export of the imported goods, in so far as that value has not been included in the price actually paid or payable:
 - i. Materials, components, parts and similar elements incorporated in imported goods;
 - ii. Tools, dies, molds and similar objects used for the production of imported goods;
 - iii. Materials consumed in the production of imported goods;
 - iv. Works of engineering, study, art and *design*, plans and sketches executed outside Timor-Leste and necessary for the production of the imported goods;
 - c) Royalties and license fees relating to the goods to be valued, which the buyer is obliged to pay, either directly or indirectly, as a condition of sale of the goods

goods to be valued, insofar as these royalties and license fees have not been included in the price actually paid or payable;

d) The value of any part of the product from the resale, assignment or further use of the imported goods that reverts directly or indirectly to the seller.

2. Without prejudice to the provisions of the previous number, in order to determine the customs value pursuant to the provisions of article 1, the totality of the following elements shall also be added to the price actually paid or payable for the imported goods:

a) Transport costs of imported goods to the port or place of importation;

b) Loading, unloading and handling expenses related to the transport of imported goods to the port or place of importation; and,

c) Cost of insurance.

3. Any element that is added, pursuant to the provisions of this article, to the price actually paid or payable will be based exclusively on objective and quantifiable data.

4. For the determination of the customs value, no element will be added to the price actually paid or payable, with the exception of those foreseen in this article.

Decree-Law No. 88/2022

December 14th

Third Amendment to Decree-Law No. 14/2004, of 1st of September, on the Practice of Health Professions

The fundamental right to freely choose a profession, enshrined in article 50 of the Constitution of the Democratic Republic of Timor-Leste (CRDTL) is susceptible to restriction when professions are at stake, which, for reasons of protecting the public interest that they pursue, must be subject to control in terms of access and exercise, their own technical and deontological standards, as well as subject to an autonomous disciplinary regime.

Thus, the health professions that contribute to the defense of the fundamental right to health, provided for in article 57 of the CRDTL, pursue that interest, embodied in the protection of public and individual health of citizens.

In this regard, the Health System Law - Law n.º 10/2004, of September 24, amended by Law n.º 24/2021, of November 19

(LSS) – states in its article 8 that “the law establishes the essential requirements for the performance of functions and the rights and duties of health professionals, namely those of a deontological nature, considering the social relevance of their activity”.

In effect, to date, the State, using its power to regulate professions, has done so through Decree-Law No. 14/2004, of September 1st, which has been subject to two amendments, third. It is now important to go further in terms of compliance with article 8 of the LSS.

For this purpose, the rights and duties of health professionals are enshrined.

Considering the need for the registration process to constitute a way of ensuring competence and professional responsibility, in addition to controlling the number of health professionals registered in the national territory, as well as the verification of academic and professional qualifications, it now has, as a rule, two phases. A first phase in which, after document verification, the provisional registration act is issued and a second in which, after the intern completes the professional internship and passes the final exam, registration for the autonomous exercise of the profession is issued, certified with the issuance of the professional card.

Bearing in mind the high number of health professionals who are not registered, an increase was made in the amount of fines for those who, within two months of the entry into force of this diploma, do not register. Likewise, fines are increased for health care providers that hire health professionals who are not registered with the Ministry of Health.

This amendment aims to increase the level of demand for obtaining a professional certificate, more qualified health professionals, better quality of health care provided and greater confidence in the technical and deontological quality of those professionals.

The Government decrees, pursuant to paragraph p) of paragraph 1 and paragraph 3 of article 115 of the Constitution of the Republic, in conjunction with article 8 of Law no. 10/2004, of 11 November, amended by Law No. 24/2021, of November 19, to become law, the following:

**Article 1
Object**

This diploma makes the third amendment to Decree-Law no. 14/2004, of 1 September, amended by Decree-Laws no. 40/2011, of September 21st, and 4/2019, of March 13th, on the Exercise of Health Professions.

**Article 2
Amendment to Decree-Law No. 14/2004, of September 1st**

Articles 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 20 and 21 of Decree-Law no. 14/2004, of 1 September, amended by Decree-Law no. 40/2011, of 21 September, and