

## DECREE-LAW

### ESTABLISHES OF TIMOR-LESTE INSTITUTE OF INDUSTRIAL PROPERTY

Whereas the legal system of industrial property today enjoys an autonomous place in the world because of its importance as a regulator of economic activities and as a guarantor of fair allocation of rights over various technical production processes, and development of wealth.

Considering that the world industrial and technological development has moved towards the internationalization of the importance of this legal and economic institute, as a platform linking between the industrialized countries and the developing countries.

Having regarded, finally, to the growing importance of Industrial Property in Timor-Leste, it is necessary to create a body that can act with the necessary administrative and financial autonomy in the administration of the whole system that guides the creation, concession, maintenance, extension or transfer of industrial property rights.

Thus, under the provisions of paragraph e) of Article 115, paragraph 1 of the CRDTL, the Government decrees, as a Law, the following:

#### CHAPTER I

##### General Provisions

##### Article 1

##### Establishment and Nature

1. The Timor-Leste Industrial Property Institute, abbreviated IPITL,IP, is hereby established.
2. The IPITL, IP, is an institution established under public law, integrated in the indirect administration of the State, in the form of Public Institute, endowed with technical autonomy, administrative, financial and own assets.

##### Article 2

##### Territorial scope of operation and headquarter

1. The IPITL,IP operates throughout the national territory.
2. IPITL, IP has its headquarter in Dili and can create and establish decentralize services in municipalities and special administrative regions.

##### Article 3

##### Mission and Assignments

1. IPITL, IP's mission is to ensure the promotion and protection of Industrial Property at the national and international level and to collaborate with other regional and international organizations specialized in the area, of which Timor-Leste is a member.
2. The IPITL, IP, has the following assignments:
  - a) implement rules governing Industrial Property rights, in view of the social and economic interest, and technological development of the country;
  - b) promote actions necessary for the allocation and protection of industrial property rights and contributing to fair competition.
3. The IPITL, IP shall:
  - a) propose the definition of specific Industrial Property policies and monitor the implementation results of the measures;
  - b) submit proposals for the development and improvement of industrial property legislation and ensure that it is complied with;
  - c) ensure the allocation and protection of industrial property rights in light of enhancing fair competition;
  - d) process the applications for invention patents, utility models, industrial designs, trademarks, and geographical indications and classify them;
  - e) maintain an up-to-date registration of allocated rights and their amendments, allowing the continuity of information, certificates and evidence necessary for the conflicts resolution of industrial property;
  - f) publish as legally established, the actions, decisions and other relevant matters relating to Industrial Property;
  - g) promote the dissemination of technological information with a view to stimulate inventiveness and innovation, and adopt measures to encourage the transfer of technology and the use of patents, by mobilising the various partners of public and private academic and research institutions as well as civil society.

#### Article 4

##### Tutelage and supervision

The IPITL, IP carries out its activity in accordance with this decree and the applicable law, under the supervision and oversight of the Member of the Government responsible for Industry and Trade

#### Article 5

##### Bodies

1. The following are bodies of the IPITL:
  - a) Board of Directors;
  - b) Auditing Board ;
  - c) Advisory Council

## Article 6

### Statutes

The Statutes of IPTL, IP, annexed to this Decree are hereby approved and form an integral part thereof.

## Article 7

### Officers

1. IPITL officials are subject to legislation applicable to the civil service
2. The organizational structure and the number of directorate and department shall be approved by a ministerial order of the responsible minister in agreement with the member of the government responsible for the Civil Service Commission

## CHAPTER II

### FINAL DISPOSITION

## Article 8

### Entry into force

This Decree and the Statutes annexed hereto shall enter into force on the day following its publication

Approved by the Council of Ministers in.... de..... 2021

The Prime Minister

.....

Taur Matan Ruak

The Minister for Tourism, Trade and Industry

.....

José Lucas do Carmo da Silva

Enacted in..... from..... 2021

Published by

President of the Republic

.....

Francisco Guterres Lú Olo

## ANNEX

(referred to in Article 6)

### STATUTES OF IPITL

#### CHAPTER I

##### General Provisions

##### Article 1

##### Natureza

1. The Industrial Property Institute of Timor-Leste, IP, abbreviated IPITL, I.P., is a public institute integrated in the indirect administration of the state, with autonomous of administration, financial and own assets.

##### Article 2

##### Territorial scope of operation and headquarters

1. IPITL, IP, operates throughout the national territory
2. IPITL, IP, is headquartered in Dili

##### Article 3

## Mission and Assignments

1. The IPITL, IP, has as assignments:
  - a) the implementation of rules governing industrial property rights, in view of the social interest and economic development of the country;
  - b) the promotion of actions necessary for the allocation and protection of industrial property rights and to contribute to fair competition.
2. The IPITL,IP shall:
  - a) Propose the definition of specific industrial property policies and monitor the resulting measures;
  - b) submit proposals for the improvement and development of industrial property law and ensure compliance with it;
  - c) ensure the allocation and protection of industrial property rights with a view to strengthening fair competition;
  - d) process the applications for invention patents, utility models, industrial designs and trademark registration, names and insignia of establishment, logos, designations of origin and geographical indications and classify them;
  - e) keep the register up-to-date of allocated rights and changes thereto, allowing the continued existence of certified information and evidence necessary for the resolution of industrial property conflicts;
  - f) publish acts, decisions and other elements relevant to industrial property in accordance with established law;
  - g) Disseminate industrial technological information with a view to stimulating inventive and innovative thinking, and adopt measures to encourage technology transfer and the use of patents, through the mobilisation of various partners in public, private and civil society education and research institutions.

## CHAPTER II

### Organic Structure

#### Section I

#### Article 4

#### Bodies

1. These are Bodies of the IPITL, IP:
  - a) The Governing Board, is the decision-making body of IPITL,IP, consisting of a president and two members, appointed by the Council of Ministers on the proposal of the member of the supervising government
  - b) Advisory Board, is a supporting body to the Steering Board composed of:

- i) President of the Governing Board that presides;
  - ii) Members of the Governing Board;
  - iii) Auditing Board;
  - iv) Directors and heads of operational services.
- c) Auditing Board, is the supervisory body of legality and sound financial and financial management, appointed by the Council of Ministers, under proposal of the member of the government that is responsible
2. The terms of office of the members of the bodies set out in points a) and b) shall be four years renewable for equal periods

## Article 5

### Governing Board

1. The Governing Board shall:
  - a) decide on the granting, renewal and revocation of industrial property rights;
  - b) Promote, in coordination with the competent criminal authorities, all actions necessary for the prosecution of offences against industrial property.
2. The President of the Governing Board shall:
  - a) ensure the institutional contacts of IPITL,IP with the Government;
  - b) convene and chair the meetings of the Governing Board, guiding its work;
  - c) represent the IPITL,IP, unless the statutes or the law require otherwise;
  - d) act on behalf of IPITL,IP, with regional and international institutions, including by ensuring their representation in committees, working groups or other activities of international and regional bodies related to industrial property;
  - e) propose to the Governing Board the distribution of portfolios of the various areas of operation of IPITL,IP, by the respective members;
  - f) promote, where appropriate or the governing board decides, the convening of the advisory board for working meetings, chairing such meetings;
  - g) perform the other tasks assigned to it by IPITL,IP internal regulation;
3. The President may take all decisions and perform all acts which, depending on the decision of the Governing Board, cannot, for imperative reasons of urgency, await the meeting of the Governing Board, such decisions or acts shall be subject to ratification by the Governing Board at the first subsequent ordinary meeting.
4. The President is replaced, in his absence and impediments by the representatives he indicates.

## Section III

## Article 6

### Auditing Board

1. The Auditing body is the supervisory body of IPITL,IP, responsible for the control of legality, sound financial management and assets.

2. The competences and functioning of the Auditing body are those provided for in Decree-Law No 30/2020 of 29 July that regulates the Organization of the Direct and Indirect Administration of the State.

## Section IV

### Article 7

#### Advisory Council

1. The Advisory Board is chaired by the President of the IPITL Steering Board, IP, and is composed of the members of the Governing Board and the Directors and Heads of Operational Services.
2. The Governing Board shall:
  - a) assess the annual report and accounts, business plan and budget;
  - b) issue an opinion on the acquisition, encumbrance or alignment of immovable property;
  - c) Monitor the activity of IPITL,IP, formulating suggestions or recommendations as appropriate;
  - d) comment on any matters referred to it by the Governing Board.

## Section V

### Article 8

#### Remuneration of members of the bodies

The remuneration of the members of the Board of Directors and of the Auditor and the stipend of the attendance of the Advisory Board members are determined by government decree, which establishes a ceiling of extraordinary meetings with the rights for attendance stipend.

## CHAPTER III

### Article 9

#### Structure of Operational Services

1. The internal organisation of IPITL,IP shall comprise the following organizational units:
  - a) Directorate of Trademarks and Patents;
  - b) Directorate for External Relations and Legal Affairs;
  - c) Directorate of organization and management.

2. By decision of the Governing Board, subject to approval by the member of the supervising Government, and publication in the Journal of the Republic, flexible units designated by departments whether or not integrated into organizational units may also be created, modified or extinguished, the number of which shall not exceed the maximum of eight units, the respective competences being defined and approved by the Governing Board

## Article 10

### Directorate of Trademarks and Patents

1. The National Directorate for Trademarks and Patents, abbreviated DMP, is the Office responsible for Proprietary Industrial Property Rights and National and International Protection, implementing actions relating to the allocation and protection of rights relating to trademarks, logos, rewards, designations of origin and geographical indications, designs or models, patents of invention, utility models, supplementary protection certificates and topographies of semiconductor products.

2. DMP competencies:

- a) carry out the formal and substantive examination of applications for protection of the different forms of industrial property and the classification of those forms;
- b) publish the industrial property bulletin and other publications in the field of industrial property;
- c) carry out acts relating to the granting, maintenance, modification and termination of industrial property rights by means of endorsements;
- d) ensure access to the dissemination of technical information contained in industrial property documents;
- e) promote the study of the institutional and business realities that characterise the innovation system in general and that of industrial property in particular;
- f) ensuring the documentation circuits necessary for the regional and international protection of the industrial property modalities involved in them;
- f) Prepare the certificates, certified, titles and other documents attesting to those rights;
- g) Ensure an effective rapprochement with the different actors of the innovation system and, in particular, with the business community, in strengthening the innovation and competitiveness of the country.

3. The Directorate of Trademarks and Patents is directed by a National Director.

## Article 11

### Directorate for External Relations and Legal Affairs



1.The Directorate of International Relations and Legal Affairs, abbreviated as DREJ, is the service responsible for the technical and legal monitoring across the whole IPITL, IP, and in the promotion of the industrial property system and international relations.

2. DNREJ Competencies:

- a) coordinate the representation of the IPITL, IP, abroad, supporting the preparation of meetings or technical inputs related to the Institute's international relations;
- b) monitor the implementation of events, international visits and work meetings, providing assistance to representatives and international bodies or countries travelling to Timor-Leste;
- c) support IPITL,IP cooperation initiatives with national and international with regional or international bodies, including within the CPLP and ASEAN;
- d) carry out technical-legal tasks of an external nature by producing studies, information, opinions in the field of its tasks;
- e) provide the necessary technical and legal support to carry out the tasks of IPITL,IP;
- f) ensure administrative litigation related to the allocation of industrial property rights;
- g) ensure that the necessary steps are taken in cooperation with competent bodies to take preventive or punitive action, in particular in the areas of infringement of industrial property and unfair competition.

3.The Directorate for External Relations and Legal Affairs is headed by a National Director

Article 12

1.The Directorate of Organization and Management, abbreviated DOG, is the service responsible for the study and administrative support, which aims to optimize the human, financial, patrimonial and technological resources of IPITL,IP.

2. DOG Competencies:

- a) propose and implement improvement measures for resource management efficiency;
- b) Ensure the coordination of service function;
- c) promote measures to motivate human resources, ensure that recruitment and training actions are adequate to meet the needs of IPITL,IP;
- d) coordinate the monitoring of the implementation of the annual activity plans, prepare financial implementation reports and organise the accountability instruments, promoting the development of management tools and indicators;
- e) prepare the elements necessary for the preparation of the IPITL,IP, ensuring its proper execution and keeping the revenue and expenditure;

f) manage the assets and supplies of IPITL,IP, and maintain the inventory of movable and immovable property, proposing measures for the rational use of space and equipment.

3. Directorate for Organisation and Management is headed by a National Director

## CHAPTER IV

### Human resources and financial management

#### Section I

#### Human resources

##### Article 13

##### Labor Regime

1.IPITL,IP human resources shall be governed by the rules governing civil servants and officials of the public administration and by the rules governing managerial and managerial positions in the public administration.

2. The IPITL, IP, may use the hiring of specialized technicians, as provided for in the Legal Regime of Fixed-Term Employment Contracts in the Public Administration.

3.The procedures for selecting and recruiting staff and managers and managers are carried out in accordance with the law.

##### Article 14

The officials and directorate units and managers shall be adopted within 60 days of the entry into force of these Statutes by a ministerial order from the responsible minister after obtaining the opinion of the Civil Service Committee.

#### section II

#### Financial management

##### Article 15<sup>o</sup>

##### General Principles

The financial management of IPITL, IP, is subject to the principles and budgetary rules laid down in the law governing the budget and financial management and other applicable legislation.

##### Article 16<sup>o</sup>

## Revenues

1. The revenues of IPITL, IP. are:

- a) Appropriations allocated in the general state budget for IPITL.IP;
- b) Grants, donations or contributions by any public or private national or foreign entity;
- c) Income from own resources;
- d) Revenue from the sale of publications, preparation of studies and participation in events;
- f) Any other amounts arising out of its activity or others, which by law, contracted or other means that must be reverted to it.

## Article 17º

### Expenses

- 1. The expenses of IPITL, IP, are those resulting from the charges arising from the performance of its duties.
- 2. The realization of any expenditure should have been stipulated and provisioned in the current budget and be authorized by the Governing Board,

## Article 18º

### Procurement

IPITL,IP's public contracts are governed by the legal regime applicable to procurement and procurement.

## CHAPTER V

### Final Disposition

## Article 19º

### Regulation

The rules of procedure defining the structure, operation and organization of IPITL services shall be submitted by the Management Board to the member of the government who is supervising the IPITL,I.P.,for approval within 90 days of the entry into force of these statutes.