



## VIII CONSTITUTIONAL GOVERNMENT

---

### **DECREE-LAW No 36/2023**

#### **PHYTOSANITARY AND QUARANTINE**

The legal framework relating to phytosanitary lays down in decree-law No. 21/2003, of 31 December, on the legal quarantine regime for importing and exporting goods and for the sanitary control of international shipping. This decree-law adopts a biosafety approach combining plants, animals and their products in a unique legal instrument.

As the Democratic Republic of East Timor moves towards greater integration into the international trade system, it deals with the increased flow of goods in and out of the country and places greater emphasis on food security, agricultural production and investment in agriculture, this decree-law seeks to establish an improved and more effective framework for the protection of plants and plant products in the country, as well as for its agricultural activity and environment, in order to align procedures with international trade standards.

Thus, this decree-law provides a legal regime for the trade of plants, products of plant origin and regulated articles, distinct from the regime applicable to animals and their products. It also provides a comprehensive system that responds to phytosanitary and quarantine risks in the territory of East Timor. The key objectives of this decree-law are to protect plants and products of plant origin from pests and diseases that may threaten these resources and, thus, ensure the protection of the environment, the economy and food security. It also aims to provide a clear, efficient and conducive framework for commerce and business activities, empower public officials and facilitate private sector activities.

This decree-law also establishes the legal foundations for the import and export of plants, products of plant origin and other regulated articles, a framework for domestic surveillance, defining procedures to respond to the detection of regulated pests and a general framework for phytosanitary measures.

Finally, this decree-law creates a framework that allows for the implementation of the provisions by establishing the role of the responsible authority, its powers and how to implement the rules. The framework established in this decree-law will be developed through

regulations, which will define procedures and other technical details.

Thus, the Government decrees, under the terms of paragraph o) of No. 1 of Article No. 115 and paragraph d) of Article No. 116 of the Constitution of the Republic, to be valid as law, the following:

## **Chapter I**

### **General provisions**

#### **Article No. 1**

##### **Object**

The object of this law aims to establish the phytosanitary framework in East Timor to prevent the introduction and control the spread of pests, protect plant resources and facilitate trade in plants and plant products.

#### **Article No. 2**

##### **Scope of application**

This law applies throughout the national territory.

#### **Article No. 3**

##### **Objectives**

This law has the following fundamental objectives:

- a) Prevent the introduction and spread/dissemination of harmful organisms, especially from quarantined objects;
- b) Control pests throughout the national territory in order to prevent their spread and, in this case, to achieve eradication;
- c) Ensure the inspection and certification of plant products for import and export.

#### **Article No. 4**

##### **Definitions**

The purposes of this law it is understood as follows:

- a) «Phytosanitary action» is the performance of an official operation, such as inspection, analysis, surveillance or treatment, or official control, carried out to implement any phytosanitary measure;
- b) «AIFAESA», the Authority for Inspection and Supervision of Economic, Sanitary and Food Activity, IP, as established under the terms of Decree-Law No. 26/2016, of 29 June;

- c) «Pest risk analysis» is the biological assessment process or other scientific and economic evidence to determine whether a pest should be regulated and the intensity of any phytosanitary measures to be taken against it;
- d) «Seizure» means maintenance of a consignment in official custody or confinement as a phytosanitary measure;
- e) «Area» means all or an officially defined part of East Timor, which includes a site or place of production;
- f) «Threatened Area» is the area in which ecological factors favour the establishment of a pest whose presence will result in significant economic losses;
- g) «Cultivation Area» is a field, plantation, infirmary, nursery, greenhouse or laboratory;
- h) «Quarantine Area» is the area within which a pest in quarantine is officially present and being controlled;
- i) «Pest-Free Area» is the area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is officially maintained;
- j) «Regulated Article» is the plant, plant product, place of storage, packaging, transport, container, soil and any other organism, object or material capable of harbouring or disseminating pests subject to phytosanitary measures, mainly when it involves international shipping, including beneficial organisms;
- k) «Phytosanitary Certificate» is the official document, or the official electronic equivalent, attesting that a consignment complies with the phytosanitary importation requirements;
- l) «National Phytosanitary Chief», the person appointed by the Minister according to Article 5(2);
- m) «Restrains», means the application of phytosanitary measures in and around an infested area to prevent the spread of a pest;
- n) «Container» is the box, bag, wrapping, cover or other receptacles in which any plant, plant product or other regulated article has been or is transported;
- o) «Control» is the suppression, containment or eradication of a pest population;
- p) «Official Control» is the implementation of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures to eradicate or contain pests subject to quarantine or for the management of regulated pests not subject to quarantine;
- q) «Packaging» is the material used in the packaging, containment or protection of any plant, plant product or other regulated article;
- r) «Entry»:
  - i. Concerning a pest is the movement of the pest into an area where it is not yet present or where it is present but not widely distributed and officially controlled;
  - ii. Concerning a shipment is the movement of a shipment across a bridge into an area.

- s) «Eradicate» is the application of phytosanitary measures to eliminate a pest from an area; the term «eradication» had a corresponding meaning;
- t) «Invasive Alien Species» is an exotic species which, through its establishment or propagation, has become harmful to plants or which, through risk analysis, it is proven that it can be potentially harmful to plants;
- u) «Establishment» means the near-future perpetuation of a pest within an area after entry;
- v) «Exporter» means the person who removes or for whom a plant, plant product or regulated article is removed from East Timor, including the owner, holder of the good, whoever has control over the good or who is the beneficiary with interest in it well, at the time of or after the export declaration and before its export;
- w) «Phytosanitary» means plant health;
- x) «Germplasm» is the plant destined to be used in the reproduction of plants or conservation programs;
- y) «Regular Working Hours» means the hours of work established as stipulated;
- z) «Importer» means any person by or for whom any plant, plant product or regulated article is landed, which includes the shipper, consignee, broker, agent or a person who is or becomes the owner, who has the right of possession or who is beneficially interested in such regulated article from the moment of importation until completion of the importation formalities;
- aa) «Infestation» is the presence in a commodity of a live pest of the plant or plant product in question, which includes infection;
- bb) «Inspection» is the official visual examination of a plant, plant product or regulated article to determine compliance with this law and with phytosanitary standards, which includes documentary inspections of the documents accompanying that plant, plant product or other regulated article;
- cc) «Installations» mean any land, building, structure or transportation or any marine area;
- dd) «Introduction» is the entry of a pest resulting in its establishment in East Timor;
- ee) «Pest-Free Production Site» means a place of production from which a specific pest is absent as demonstrated by scientific evidence and, where appropriate, this condition is officially maintained for a defined period;
- ff) «Phytosanitary measure» means legislation, regulation or official procedure that aims to prevent the introduction or spread of pests subject to quarantine or that limits the economic impact of regulated pests not subject to quarantine;
- gg) «Ministry», the ministry responsible for agriculture and fisheries;
- hh) «Minister», the minister responsible for agriculture and fisheries;
- ii) «Official» means what is defined, authorized and executed by the Ministry;

- jj) «Beneficial Organism» is any organism, including fungi, bacteria, viruses, viral-like organisms and invertebrates, other animals or plants, which is declared to be beneficial to flora or agricultural production;
- kk) «Modified Living Organism» means a living organism that has a new combination of genetic material obtained through the use of modern biotechnology;
- ll) «Plant» is the live plant and parts thereof, including the seed or germplasm;
- mm) «Entry Point» is the officially designated airport, port or land border post for the import or export of shipments or the arrival of passengers;
- nn) «Plague» is the organism, species, strain or biotype of any plant, animal or pathogen that is harmful to plants or plant products;
- oo) «Plague of National Interest» means the unregulated pest with significant economic impact whose biological and epidemiological characteristics determine that its control in East Timor has to be implemented at several levels, requiring official intervention from the Ministry for its management in East Timor, technical coordination and implementation;
- pp) «Quarantine Plague» is a pest of potential economic importance for the endangered area, where it is not yet present or when it is already present but is not widely distributed and is under official control and declared as such by a ministerial order;
- qq) «Regulated Pest» means the quarantined pest or a regulated non-quarantined pest;
- rr) «Regulated Non-Quarantined Pest» means the non-quarantined pest whose presence in a plant for planting affects the proposed use of that plant with an unacceptable economic impact and which is regulated in East Timor and declared as such by a ministerial order;
- ss) «Pre-approval» means the phytosanitary certification or verification in the country of origin, carried out by or under regular supervision of the Ministry;
- tt) «Plant Product» is the non-manufactured material of plant origin (including grains), as well as the manufactured product which, by its nature or the nature of the treatment to which it has been subjected, may create a risk of introducing and spreading pests;
- uu) «Quarantine» is the official confinement of plants, plant products or regulated articles for observation and research or future inspection, analysis or treatment;
- vv) «Shipping» is the quantity of plants, plant products or other regulated articles in transit to or from East Timor and covered, where necessary, by a single phytosanitary certificate;
- ww) «SERVE» is the acronym in Portuguese for Business Registration and Verification Service, IP, created by decree-law No. 7/2017, of March 22;
- xx) «Soil» is the material derived wholly or partly from the upper layer of the earth's crust capable of supporting plant life and which contains solid organic substances, such as parts of a plant, humus, peat or bark, but excluding any sterile medium, composed entirely of unused peat or otherwise unable to host or transmit pests;
- yy) «Suppression» means the application of phytosanitary measures in an infested area to reduce pest populations;

- zz) «Outbreak» is the recently detected pest population, including an incursion or sudden and significant increase in an already established pest population in an area;
- aaa) «Transport» means the vessel, aircraft, train, vehicle, carriage, animal or other things that may transport a plant, plant product, pest, beneficial organism or other regulated article from one location to another;
- bbb) «Treatment» is the authorized official procedure for eliminating, removing pests or rendering them infertile or for devitalization;
- ccc) «Pest-free production unit» means the production unit situated on a production site in which a specific pest is absent as demonstrated by scientific evidence and in which, where appropriate, this condition is officially maintained for a defined period;
- ddd) «Vehicle» means the vessel, aircraft, train, carriage, carriage, container, animal or other thing it may carry plants, plant products or other articles regulated from place to place;
- eee) «Sell» means offer, advertise, hold, store, display, transmit, ship, deliver or offer for sale or exchange or dispose of to any person in any way, whether or not for consideration, having the expressions "sold", "for sale" and "sale" corresponding meanings;
- fff) «Surveillance» is the official process that collects and records data on the absence or occurrence of the pest by survey, monitoring or other procedure;
- ggg) «Low pest zone» means the zone, whether all or part of a country or all or parts of several countries, identified by the competent authorities, where a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures.

## **Chapter II**

### **Skills**

#### **Article No. 5**

##### **Executing Entities**

1. The execution of this law is incumbent upon the following:
  - a) The General Directorate of Quarantine and Biosafety, hereinafter referred to as DGQB;
  - b) The relevant national directorates of the Ministry with competence in phytosanitary matters.
2. The Minister appoints, under the terms of the law and under his direct supervision, a National Phytosanitary Chief to assist him in coordinating the Ministry in phytosanitary matters.
3. Entities at the local level, including the countiesto which competences have been delegated, to act on behalf of the Ministry.

4. DGQB may revoke or suspend the effectiveness of a decision taken or instruction transmitted by the entity at a local level, including counties, to which competence has been delegated under the terms of this law.

## **Article No. 6**

### **DGQB phytosanitary competences**

The DGQB performs the following functions:

- a) Establish phytosanitary and administrative rules that must be observed for the importation, exportation, re-exportation, treatment, movement and cultivation of products subject to control;
- b) Order the products placement subject to control under a quarantine regime in official stations or places for equivalent purposes during a specific period;
- c) Regulate the inspection and control of products subject to control, as well as packaging and vehicles that transport them under any type of customs regime, including counties;
- d) Issue phytosanitary importation licenses and phytosanitary certificates for exportation, re-exportation and transit authorizations for products subject to control;
- e) Confiscate, order the treatment and return or destruction of products subject to control when they do not comply with the provisions of this law or other provisions on phytosanitary inspection and plant quarantine;
- f) Inspect and control agricultural fields and forest stands, nurseries and places where plants are stored and sold in order to know the phytosanitary situation and detect the possible presence of regulated pests;
- g) Propose services fees for the phytosanitary inspection and plant quarantine provision;
- h) Delegate the competences foreseen in this law;
- i) Promote the dissemination of this law and other legislation in the sector;
- j) Establish cooperation with other countries on plant protection activities in level regional or international.

## **Article No. 7**

### **Responsibilities of local authorities**

1. Local authorities, including municipalities, must provide the DGQB with all the necessary collaboration and support to comply with this decree.
2. Local authorities, including municipalities, must notify the DGQB of any plant health condition changes in their jurisdiction area.

## **Chapter III**

### **Management of phytosanitary matters**

#### **Section I**

#### **Functions related to phytosanitary**

## **Article No. 8**

### **Phytosanitary administration**

The National Phytosanitary Chief (CFN) communicates the structure and administration of East Timor's phytosanitary system to relevant regional and international organizations.

## **Article No. 9**

### **Phytosanitary functions**

1. The DGQB performs the following functions:
  - a) Prevent the introduction and entry of regulated pests into East Timor;
  - b) Propose, review, prepare, implement and execute the phytosanitary measurements established by the Minister within the scope of this law;
  - c) Facilitate public consultations during the phytosanitary measures development;
  - d) Conduct phytosanitary risk analysis;
  - e) Inspect and test any plant, plant product or regulated article, where appropriate, to prevent the introduction and spread of pests;
  - f) Ensure the surveillance of any growing plant, including any cultivated area and wild flora and any plant or plant product stored or in transport, to report the occurrence, appearance or spread of pests and control them;
  - g) Determine quarantine areas, pest-free areas, threatened areas and buffer zones;
  - h) Protect threatened areas and designate, maintain and research pest-free areas, unaffected production crops and areas with low pest occurrence;



- i) Develop dedicated lists of quarantine pests, regulated non-quarantine pests, regulated articles and pests of national concern;
  - j) Develop pest diagnostics and investigative & analytical capabilities;
  - k) Disinfest or disinfect any plant, plant product or other regulated articles;
  - l) Issue importation licenses;
  - m) Conduct pre-approval inspections whenever requested;
  - n) Require phytosanitary actions as conditions or prohibition on the plants, plant products and other regulated articles importations;
  - o) Issue phytosanitary certificates for exportation or re-exportation;
  - p) Ensure the shipments' phytosanitary safety after certification and before export;
  - q) Issue transit permits;
  - r) Establish auditing and tracking procedures for phytosanitary certification applicable to any plant, plant product and other regulated articles;
  - s) Ensure disinfestation, whenever appropriate, of regulated articles shipments intended for importation into or exportation from East Timor, as well as their containers, packaging, storage locations and transport facilities;
  - t) Ensure, through inspections and phytosanitary measures, that wastes from vehicles, aircraft arriving in East Timor, ships, or other vessels mooring at East Timor ports or from facilities where regulated articles are handled or stored do not pose a risk to plant health;
  - u) Notify phytosanitary measures to other countries under international obligations and provide information to other countries regarding the phytosanitary measures applied, either through pest risk analysis or by reference to applicable international standards;
  - v) Provide information on the phytosanitary status of an area or East Timor in general;
  - w) Develop research and investigations in the field of phytosanitary protection;
  - x) Distribute information on regulated pests and respective means of prevention and control;
  - y) Communicate and coordinate with local and regional authorities, as well as community leaders, as necessary, and provide them with the technical assistance and training necessary to implement this law at the local level;
  - z) Supervise and control the quarantine stations and the respective quarantine activities;
  - aa) Perform any other functions that the Minister deems necessary for applying this law.
2. The national directorates referred to in paragraph 1 of article 5 must implement the rules in Chapter VII of this law within the scope of their competences.

## **Article No. 10**

### **Delegation of functions**

1. By contract or written agreement, the Minister may designate any person with the indicated qualifications and who does not have a conflict of interest with the matters object of the delegation to perform any of the functions referred to in the previous article.
2. Whenever necessary, the CFN should organize training actions to ensure that the people performing the delegated functions have the skills to perform their functions efficiently.
3. The Minister does not delegate the following functions:
  - a) Issuance of phytosanitary certificates;
  - b) Official liaison responsibilities or any reporting responsibilities to other ministries or foreign authorities;
  - c) Approval of phytosanitary requirements or measures;
  - d) Other functions as stipulated in regulation.

## **Article No. 11**

### **Delegation agreement or contract**

The delegation agreement or contract established under the terms of the previous article between the Ministry and the individual or public or private person to whom functions are delegated must specify those functions, comply with the applicable legislation on contracts and include at least the following aspects:

- a) The duration;
- b) The specific tasks covered by the delegation and any particular methodologies to be used where necessary;
- c) The mechanisms for controlling and supervising the delegated functions;
- d) The value corresponding to the performance of the delegated functions;
- e) The skills and capabilities required of the person or entity to whom the functions have been delegated;
- f) The revocation of the delegated functions conditions.

## **Section II**

### **Personal**

## **Article No. 12**

### **Ministerial powers**

It is incumbent to the Minister, upon recommendation of the CFN:

- a) Designate official and reference laboratories and quarantine stations;
- b) Declare quarantine areas and pest-free areas;
- c) Declare phytosanitary emergencies;
- d) Designate entry and exit points for the purposes of this decree;

### **Article No. 13**

#### **National Phytosanitary Chief**

1. The CFN, appointed by the Minister under paragraph no. 2 of article no. 5, must possess prescribed specialized qualifications and knowledge in plant pathology, entomology, agronomy or in an area related to plant protection.
2. The CFN must:
  - a) Advise the Minister on phytosanitary matters;
  - b) Transmit instructions from the Minister to the DGQB and national directorates with phytosanitary attributions;
  - c) Establish minimum qualifications for and supervise the training and development of phytosanitary inspectors and other personnel involved in phytosanitary matters;
  - d) Notify trading partners of non-compliance relevant cases with import requirements that may be prescribed;
  - e) Represent East Timor in bilateral, regional and international forums related to phytosanitary issues;
  - f) In cooperation with other relevant authorities, negotiate bilateral agreements on matters relating to phytosanitary and trade in plants, plant products and other regulated articles;
  - g) Recommend to the Minister the quarantine stations and entry points and official and reference laboratories to be used for this law or by any other person or institution in the public or private sector involved in the implementation of phytosanitary functions and establishing the procedures for them.
3. It is incumbent upon the CFN to serve as a liaison between the general directors and the national directors of the national directorates referred to in paragraph no. 1 of article no. 5 to ensure that the national directorates effectively collaborate with other ministries and bodies in order to promote a harmonious, unitary, integrated and coherent performance of phytosanitary and phytosanitary functions.
4. The CFN is also responsible for proposing work agreements, contracts or any other cooperation mechanisms for approval by the Minister.

## **Article No. 14**

### **Laboratories and analysts appointment**

1. It is incumbent to the Minister, upon recommendation of the CFN, to designate:
  - a) Any diagnostic, research or other laboratory, such as a reference laboratory or official laboratory;
  - b) Any analyst as an official analyst to analyse samples collected under this law's terms.
2. Any laboratory or analyst designated under this Article must meet the requirements stipulated in a ministerial order, including the requirements of impartiality and independence.
3. The conditions for the classification, approval, operations and supervision of laboratories are defined by ministerial order.

## **Section III**

### **Coordination, consultation and cooperation**

## **Article No. 15**

### **Phytosanitary Advisory Committee**

1. The Phytosanitary Advisory Committee is created, composed of the members stipulated by Government resolution, to guarantee a broad and representative inclusion of the public and private sectors.
2. The CFN chairs the Phytosanitary Advisory Committee.
3. Phytosanitary Advisory Committee can define its operational and procedural rules.
4. The Phytosanitary Advisory Committee is an advisory body for phytosanitary matters in East Timor responsible for:
  - a) Exchange information on phytosanitary matters;
  - b) Serve as a mechanism for coordinating stakeholders and members of the Phytosanitary Advisory Committee;
  - c) Share scientific advice on phytosanitary matters;
  - d) Serve as a mechanism for regular and periodic consultation, including inviting wider public and private stakeholders who may not be members of the Phytosanitary Advisory Committee, on matters relating to phytosanitary policy and regulation, international trade and other matters related to the implementation of the present law;
  - e) Provide contributions to the phytosanitary legislation, emergency response programs, policies and plans.

## **Article No. 16**

### **Working Group on Phytosanitary Biosafety**

1. The Working Group on Phytosanitary Biosafety, from now on referred to as GTBF, is created and chaired by the CFN.
2. The GTBF consists of:
  - a) CFN and Chief Veterinary Officer;
  - b) DGQB employees;
  - c) Focal points of the national directorates with attributions on phytosanitary;
  - d) AIFAESA representatives, Customs Authority officials, members of the private sector and other ministries or individuals, whenever necessary.
3. The GTBF's role is to develop and adopt:
  - a) Work plans, strategies and mechanisms for coordinating and implementing the functions described in paragraphs c) to l) of paragraph no. 1 of article no. 9;
  - b) Develop strategies and best practices for efficient and effective border control and inspections in East Timor.

## **Article No. 17**

### **Duty to help and cooperate**

1. Ministries and other entities responsible for customs, ports and airports, airlines and shipping, postal services, police, regional and local authorities, public health and the environment, and other relevant public authorities should assist the Ministry in performing its functions. And in the exercise of its powers under the present law, providing the necessary facilities and assistance, as requested by the DGQB.
2. Customs and other border authorities must cooperate with the Ministry regarding border controls. They must inform it whenever any shipment containing regulated articles arrives at the border for import or export.

## **Article No. 18**

### **Collaboration and working agreements with AIFAESA, Ministry of Health and Customs Authority**

The CFN shall ensure collaboration, through operational working arrangements and other coordination mechanisms, with:

- a) AIFAESA, under Articles No. 6 and No. 7 of decree-law No. 26/2016, on 29 June, in particular at the border and during food production;
- b) The ministry responsible for public health, with regard to food safety;
- c) The authority responsible for customs, with regard to biosafety and border controls.

## **Article No. 19**

### **Duties of the postal authorities and the express remittance operator**

1. Any employee of the postal service or employee of an express delivery operator who is aware of or suspects the arrival or importation of any plant, plant product or regulated article East Timor, and in the absence of a phytosanitary inspector, shall notify the phytosanitary inspector.
2. The postal service employee must seize the plant, plant product or regulated article for inspection by the phytosanitary inspector and shall not release it unless authorized by a phytosanitary inspector.
3. The seizure carried out under the previous number is considered an action taken by or by the delegation of the Ministry.
4. Within three days of notification of the seizure carried out under paragraph 2, the DGQB must assume responsibility for the safe keeping of any item seized.

## **Section IV**

### **Documentation, requirements and measures issued by the Ministry**

## **Article No. 20**

### **Principles for approving and implementing phytosanitary measures**

Phytosanitary measures approved by the Minister must:

- a) Be in harmony with international standards;
- b) Be based on a risk analysis or assessment, as well as a scientific basis;
- c) Be the least restrictive option that achieves the adequate level of phytosanitary protection for East Timor;
- d) Be necessary to achieve the adequate level of phytosanitary protection for East Timor;
- e) Be proportionate to the risk to phytosanitary.

## **Article No. 21**

### **Review and update of phytosanitary measures and regulations**

1. The CFN shall develop periodic reviews of any phytosanitary measures, requirements and regulations and recommend changes to the Minister when:
  - a) New facts emerge;
  - b) There are changes to international standards and requirements;
  - c) There was a risk analysis that requires it;
  - d) Conditions change, forcing a change.

2. The DGQB must publicize and disseminate to the public the proposed amendments to this statute or the corresponding implementing regulations, through the phytosanitary Advisory Committee, by placing the proposals on the *websites* of the Ministry and other means.
3. Except in cases of emergency or provisional measures, before the measure's approval or proposed legislation, the DGQB must reserve at least 60 days for interested parties to submit comments on the proposed amendments.
4. The Minister must promote the publication in the *Journal of the Republic*, any amendments to phytosanitary measures and regulations, and their wide dissemination by the DGQB.

#### **Article No. 22**

##### **Dissemination and publication of phytosanitary regulations**

1. At the request of interested parties, the DGQB shall provide free of charge any information relating to this law or the remaining legislation issued under it and shall establish contact points to respond to queries relating to legislation on phytosanitary.
2. The DGQB must widely disseminate the regulations on phytosanitary, including the forms and notifications relating to this matter and whose publication is promoted by the Minister in the *Journal of the Republic*, allow for wide dissemination among stakeholders and the general public, and share regulations with businesses partners, as stipulated.
3. DGQB shall ensure that all phytosanitary regulations, including forms and notifications, are readily and freely available through *websites* or other electronic means.

#### **Article No. 23**

##### **Technical review and audit**

1. The CFN must ensure the review and technical audit of the services performed under this statute and the effectiveness of the measures adopted.
2. The CFN must monitor and evaluate the execution of this law and prepare an annual report thereon, which it submits to the Minister.

#### **Article No. 24**

##### **Manuals**

The DGQB must develop detailed guidelines in manuals and standard operating procedures that define the actions, measures, and procedures to be taken by the DGQB in the execution of this law.

## **Article No. 25**

### **Registration and databases**

1. DGQB shall establish a register of operators and maintain records relating to imports and exports as stipulated.
2. For the purposes of this article, the DGQB may use and have access to registration systems established by other government bodies and may enter into collaboration and information-sharing agreements.

## **Article No. 26**

### **Confidentiality**

Without prejudice to the restrictions on the disclosure provided for by law, the DGQB may disclose confidential information:

- a) To a court, when authorized or directed by a judge, in connection with legal proceedings;
- b) To the competent authority of the Government of East Timor for the purposes of:
  - i. Prevention, detection, investigation, prosecution and punishment of offences;
  - ii. Protection of public health and safety;
  - iii. Phytosanitary protection;
  - iv. Border security.
- c) To the competent authority of a foreign country under an international agreement or treaty;
- d) To a border authority, for the fulfilment of that authority's functions related to the processing of the import, export or transit of goods, in accordance with the procedures and conditions agreed between the DGQB and that border authority to ensure the security and protection of information.

## **Chapter IV**

### **Importations**

#### **Section I**

#### **Importations requirements, restrictions and prohibitions**

## **Article No. 27**

### **Equivalence agreements and other phytosanitary matters**

Without prejudice to the powers of the ministry responsible for foreign affairs, the DGQB may negotiate bilateral and multilateral agreements for the evaluation and, where possible,



acceptance of alternative phytosanitary measures proposed by the national phytosanitary organization of an exporting country as equivalent to the phytosanitary measures required by East Timor under this statute.

### **Article No. 28**

#### **Importation requirements**

1. Any person may import a plant, plant product or regulated article into East Timor only when:
  - a) Possess, whenever necessary, an import license, granted under this law;
  - b) Possess, whenever necessary, a phytosanitary certificate issued by the country of export;
  - c) Possess any other document stipulated by this decree, by the applicable regulations or in any other commercial or customs legislation;
  - d) All stipulated requirements are fulfilled.
2. When covered by a phytosanitary certificate or where so indicated on the import license, any plant, plant product or other regulated article may only be imported into East Timor through a designated entry point.
3. For the purposes of importing articles regulated under this statute, the Minister must approve a list of designated entry points.
4. Whenever circumstances are required, the DGQB may require that imported material be kept or cultivated in a plant quarantine station or any other location identified by it and kept under its supervision for as long as it deems necessary to identify and eradicate phytosanitary risks.
5. The Customs Authority or other border authority must notify the DGQB when it receives information that a shipment containing a plant, plant product or other regulated article has arrived or will arrive at an entry point.
6. DGQB and the Customs Authority must ensure an effective collaboration process to apply for this law.

### **Article No. 29**

#### **Importation restrictions and prohibitions**

1. Anyone who does not meet the requirements of this law cannot import any plant, plant product or other regulated Article.
2. The importation into East Timor of any plant, plant product or other regulated article that does not meet the requirements established by the Ministry.
3. Whenever it is necessary to adopt temporary measures, declare a phytosanitary emergency or take any other measures necessary to prevent the introduction or spread of a pest subject to quarantine or a regulated pest not subject to quarantine, after consulting

the CFN and based on a risk analysis or assessment, the Minister may prohibit or restrict the entry of any plant, plant product or other regulated item.

4. After obtaining advice from the CFN, the Minister must publish, by ministerial order, a specific regime for importing certain stipulated goods, including post-entry quarantine or pre-release quarantine requirements and a list of prohibited regulated products.

#### **Article No. 30**

##### **Special importations**

Without prejudice to the provisions of the previous article, in the event of a natural disaster and for humanitarian purposes or research, educational, experimental or other stipulated purposes, the ministry may authorize the importation of any plant, plant product or other regulated article, in the quantities stipulated and subject to any conditions and safeguards stipulated as necessary.

#### **Article No. 31**

##### **Importation of regulated articles containing unregulated pests**

Phytosanitary importation requirements and phytosanitary import measures determined by the Ministry do not apply to unregulated pests.

#### **Article No. 32**

##### **Propagation materials**

Any regulated article imported for propagation purposes must be subject to quarantine upon entry.

#### **Article No. 33**

##### **Importation license**

1. Any person intending to import a plant, plant product or other regulated article must apply for a license from the DGQB when:
  - a) The importation comes from a country of origin where pests subject to quarantine exist or are suspected to exist;
  - b) Importation is subject to post-entry quarantine requirements;
  - c) Importation is for a specific purpose or research purposes;
  - d) Importation is required in response to a humanitarian crisis or natural disaster;
  - e) There is a need to monitor the importation of a plant, plant product or other regulated article after entry over a period of time.

2. Whenever an import license is required under this article, the importer must submit the application to the DGQB in the stipulated form and upon payment of the stipulated fee.
3. When evaluating an import license application, the DGQB should apply existing international standards and conduct a pest risk analysis or risk assessment.
4. DGQB must approve the application when it demonstrates compliance with the requirements of East Timor in terms of phytosanitary or rejects it when it does not comply with these requirements, in both cases informing the applicant in writing.
5. DGQB may include any conditions it deems necessary in the importation license.
6. DGQB may revise, modify or revoke the license to import any plant, plant product or other regulated article when:
  - a) A change in pest status occurs, an outbreak of a pest regulated by the Ministry occurs in the country of export, or information is received about the new status of a pest;
  - b) Any new or unknown pest is detected in a consignment at the designated port of entry;
  - c) If you have changed the quantity or type of plants, plant products or other regulated articles;
  - d) There is information that indicates the importation of the consignment presents a phytosanitary risk above the level of protection of East Timor;
  - e) There has been an interception of a regulated pest the on importation, or the non-compliance is significant;
  - f) There is repeated non-compliance by the importer.

#### **Article No. 34**

##### **Border inspection posts**

When requested in writing by the Minister, the owner or operator of any border inspection post at a designated point of entry must make available and maintain areas, offices and facilities, as stipulated by ministerial order, including buildings, furniture, and accessories to be used by DGQB for inspection purposes or any other purposes related to the application of this law.

#### **Section II**

##### **Imports inspection**

#### **Article No. 35**

##### **Arrival and inspection**

1. The importer must notify the DGQB of the arrival of shipments of plants, plant products and other regulated articles using the form stipulated for this purpose.

2. Any plant, plant product and other regulated article imported into East Timor may be subject to documentary or physical inspection by a phytosanitary inspector and, where necessary, samples may be taken from shipments for testing purposes under procedures and stipulated sampling methodologies.
3. All imports of regulated articles are under the custody of the DGQB until official release by the Ministry.

### **Article No. 36**

#### **Place and time**

1. Phytosanitary inspectors must conduct any import inspection at the designated entry point, transshipment points, quarantine station or other facilities approved by the DGQB.
2. Without prejudice to the provisions of the previous number, import inspections must be carried out at the final destination by a phytosanitary inspector, upon request from the importer and payment of the stipulated fee and on condition that the container has been sealed and marked as stipulated.
3. Import inspections must be carried out during regular working hours, except when the plant, plant product or other regulated article is highly perishable or when its entry has been delayed, in which case, at the request of the importer and upon payment of the fee stipulated, the DGQB may agree to have the inspection carried out outside regular working hours.
4. DGQB can enter into bilateral agreements or other types of agreements with commercial partners in order to conduct pre-shipment inspections in the country of origin.

### **Section III**

#### **Phytosanitary actions in importations**

### **Article No. 37**

#### **Non-compliance measures**

1. When following an inspection, the phytosanitary inspector determines that the stipulated documentation does not accompany the imported plant, plant product or other regulated article or presents some risk of introducing or spreading pests, the phytosanitary inspector must seize the article and, as prescribed in the inspection manual and CFN instructions, do or order the following:
  - a) Require the importer to present the correct documentation within the stipulated period;
  - b) Conduct tests;
  - c) Apply phytosanitary treatment to remove the risk;
  - d) Transfer the regulated article to a quarantine station or other approved facility;

- e) Triage or reconfigure the article;
  - f) Resend the item to the country of exportation;
  - g) Destroy the article.
2. The methods and procedures for actions to be taken must be stipulated by the DGQB under the law.
  3. After its entry into East Timor or after treatment, any plant, plant product, or other regulated article remains unclaimed for a stipulated period, DGQB may take measures to eliminate it.

### **Article No. 38**

#### **Notification**

1. Under the terms of the previous article, any non-compliance measure adopted by a phytosanitary inspector must be preceded by a written notification to the importer, which contains the grounds for applying the chosen measure.
2. Without prejudice to the provisions of the previous number, the phytosanitary inspector may not notify the importer and conduct any of the non-compliance measures when he considers that the disposal of the imported plant, plant product or other regulated article is urgent or when notification is impracticable.

### **Article No. 39**

#### **Notice of default**

Whenever necessary, the DGQB shall notify the exporting country of instances of interception, emergency action and non-compliance.

### **Article No. 40**

#### **Costs and liability**

1. Whenever non-compliance measures are adopted, the method used to calculate the costs charged must be in accordance with the stipulated procedure and be used only to recover them.
2. The importer bears the costs and responsibility for any measures taken under this section.
3. The confiscation, elimination or destruction of any plant, vegetable product or other item regulated under the provisions of this law does not generate the responsibility of the State.

**Article No. 41**

**Importation clearance**

Whenever the phytosanitary inspector determines that the imported plant, plant product or other regulated article does not present any risk of introducing and spreading pests and is in compliance with the requirements of this law, the inspector may release the shipment upon official communication to the importer.

**Section IV**

**Phytosanitary controls for other risks from abroad**

**Article No. 42**

**Vehicles**

Any road vehicle, water craft or aircraft may be subject to phytosanitary measures as determined by the DGQB under the terms of the law.

**Article No. 43**

**Duty to declare**

1. Anyone arriving in East Timor with a plant, plant product, or other regulated item must declare it to a customs official or DGQB upon arrival. When this declaration is made to a customs official, he transmits the information to DGQB in the stipulated manner.
2. Before arrival at the entry point, any commercial flight, ship or other means of transport entering East Timor must inform passengers and crew of their duty to declare any plant, plant product or other regulated article.

**Article No. 44**

**Designated entry and exit points**

1. After consulting the CFN, the Minister must approve, by ministerial order, the list of entry and exit points established by the customs authority and entry and exit points for plants, plant products and other regulated articles that require a phytosanitary certificate or for which inspections or treatment are required.
2. Designated entry and exit points must be equipped with the indicated facilities and equipment.
3. DGQB must display phytosanitary importation requirements at designated entry points.

**Article No. 45**

**Emergency landing**

1. When, for reasons beyond the control of its captain, a vehicle disembarks or lands anywhere other than at a designated point of entry or is forced to land or enter a port in East Timor even though it has no intention of doing so. In an emergency, the vehicle's captain must notify the nearest port authority immediately.
2. No plant, plant product or other regulated article is allowed to leave the docks vicinity or the landing site until the measures stipulated by the DGQB have been carried out.
3. When the DGQB considers that the risk has been reduced to an acceptable level, the CFN may authorize the vehicle to proceed to the port where it was initially supposed to land or disembark or to an alternative entry point.

**Chapter V**

**Quarantine**

**Article No. 46**

**Quarantine stations of plants and other facilities**

1. DGQB may designate certain facilities as plant quarantine stations where plants, plant products or other regulated articles may be held for phytosanitary observation, isolation, investigation, inspection, testing, treatment, seizure or disposal.
2. Quarantine stations are established for international trade related quarantine as well as domestic quarantine.
3. DGQB may designate certain places for inspection purposes and may approve facilities owned and operated by third parties, public or private, to be used for inspections under its supervision.

**Chapter VI**

**Exportations, re-exportations and shipments in transit**

**Section I**

**Exportations and re-exportations**

**Article No. 47**

**Exportation order**

1. Whenever the importing country requires issuing a phytosanitary certificate, treatment or tests, the exporter must request the DGQB an export certificate for the regulated article.

2. The exporter must submit the application to DGQB in the stipulated form, including all required documentation, and pay the established fee.

#### **Article No. 48**

##### **Request for re-exportation**

1. Whenever any regulated article is imported into East Timor and then re-exported to a third country, including when the shipment has been stored, split, combined with other shipments or repackaged, and on the assumption that the article has not been exposed to infestation or contamination by pests, the exporter must apply to the DGQB for an export certificate for his regulated article.
2. The exporter must submit the application to DGQB in the stipulated form, including all required documentation, and pay the established fee.

#### **Article No. 49**

##### **Regulated article inspection**

The exporter must make the shipment available for inspection, and DGQB, upon receipt of an order for export, must inspect the shipment promptly.

#### **Article No. 50**

##### **Issuance of phytosanitary certificate and phytosanitary certificate for re-exportation**

1. All exportations or re-exportations must be certified in accordance with the importing country requirements.
2. DGQB is the only entity responsible for issuing phytosanitary certificates for export or re-exportation.
3. Whenever the shipment complies with the documentary or phytosanitary requirements of the importing country and whenever the exporter satisfies the other requirements of the applicable legislation, the phytosanitary inspector must issue the phytosanitary certificate for exportation or re-exportation, per case, in the stipulated form.
4. The phytosanitary inspector must reject the issuance of the phytosanitary certificate for exportation or re-exportation when the shipment is infested or does not comply with the documentary requirements or other phytosanitary requirements of the importing country or when the exporter does not satisfy the other requirements of the applicable legislation.
5. For consignments to be re-exported, the original documents and phytosanitary certificates from the country of origin must accompany the consignments covered by the DGQB re-export certificate.
6. Whenever a shipment destined for re-exportation from East Timor is or has been exposed to infestation or contamination by a pest, has lost its safety or phytosanitary integrity or



has been processed in such a way as to change its nature, the DGQB must issue a phytosanitary certificate indicating the country of origin and including the original documentation or a certified copy of the original.

#### **Article No. 51**

##### **Phytosanitary safety of the shipment**

Whenever a phytosanitary certificate or phytosanitary certificate for re-exportation is issued, and to maintain the phytosanitary safety and physical integrity of the consignment, the exporter must export it under the instructions of the DGQB.

#### **Article No. 52**

##### **Designated departure points**

1. Upon the opinion of the CFN, the Minister must designate, from the list of exit points established by the customs, by ministerial order, the exit points for plants, plant products or regulated articles.
2. Designated exit points must be equipped with the indicated facilities and equipment.

### **Section II**

#### **Transit**

#### **Article No. 53**

##### **Remittance transit order**

Any person intending to transit a consignment of plants, plant products or other regulated articles through East Timor must submit an application to the Ministry in the stipulated form and pay the stipulated fee.

#### **Article No. 54**

##### **Issuance of transit authorization**

DGQB must grant the transit request when it satisfies the stipulated requirements or reject it when it does not meet those requirements and may include the necessary transit conditions in the transit authorization form.

#### **Article No. 55**

##### **Phytosanitary measures for shipments in transit**

1. Phytosanitary measures do not apply to shipments in transit through East Timor when:

- a) The consignment has been packed in such a way as to preclude any risk of spreading regulated pests that may be present;
  - b) The documents accompanying the shipment comply with the phytosanitary requirements of the country of destination;
  - c) The shipment is accompanied by the phytosanitary certificate from the country of origin.
2. The phytosanitary inspector may inspect any plant, plant product or other regulated article in transit through East Timor at the point of entry and may, upon detection or suspicion of a regulated pest, notify and seek approval from the CFN to refuse entry, retain or confiscate the regulated article and apply treatment or destroy the shipment.
  3. Vehicles transporting plants, plant products or other regulated articles that make a stopover at a port or airport or pass through a port located in the territory of East Timor on their way to another country must comply with the conditions stipulated by the DGQB, under the terms of the law.
  4. Consignments in transit through the territory of East Timor must proceed from the point of entry along the route and within the period of time specified by the DGQB until the point of departure from the country, when the phytosanitary inspector confirms that the consignment has left the territory.

## **Chapter VII**

### **Control of pests**

#### **Section I**

#### **Control and surveillance**

#### **Article No. 56**

#### **Phytosanitary control measures**

1. Any plant, plant product or other regulated article or any area or place that is infested or suspected of being infested by a regulated pest or a pest of national concern, as well as any pest-free area, low-pest area, pest-free site or production facility or buffer zone, may be subject to phytosanitary control measures and actions provided for in this article.
2. A phytosanitary inspector may, where necessary, conduct:
  - a) Treatment, including treatment of vehicles whether or not they have been infested, to limit the spread of the quarantined pest, keep the area free of a specific pest, or maintain a low level of a pest, as appropriate;
  - b) Disposal of plants, plant products or other regulated articles, including treating vehicles whether or not they are infested, to limit the spread of the quarantined pest, keep the area free of a specific pest or maintain the low level of a plague, as the case may be;

- c) Prohibition or restriction of movement of any plant, plant product or other regulated article into, from or into the area, place, facility or zone;
  - d) Prohibition of planting or replanting specific plants in a specific location;
  - e) Any other phytosanitary action that the ministry understand necessary.
3. DGQB ensures collaboration with other Ministry services regarding the contribution of phytosanitary measures, surveillance and integrated pest management diagnostic systems in an ecosystemic approach to crop production and protection.

#### **Article No. 57**

##### **List of regulated pests**

1. DGQB shall develop, maintain, periodically update and publish a list of regulated pests in East Timor and shall communicate and publish it, as stipulated, to business partners and international organizations.
2. DGQB shall categorize regulated pests, including those subject to and not subject to quarantine, based on risk analyses for inclusion in the list.
3. DGQB shall identify national interest pests based on surveillance and the potential economic impact of these organisms.

#### **Article No. 58**

##### **Duty to notify the DGQB**

1. The occupant or owner of any premises who is aware of or suspects the presence of a regulated pest or a national concern pest must immediately notify the DGQB, the person in charge of the nearest police station or the person in charge of the nearest agricultural authority.
2. When the person notified under the previous number is not an employee of the Ministry, that person must immediately transmit the information to the DGQB.
3. Any public or private entity, researcher, university or other person who identifies the occurrence of a new pest or a regulated pest must report this occurrence as soon as possible to the DGQB.

#### **Article No. 59**

##### **Surveillance**

DGQB shall collect data on the biology of the pest, its distribution, host range and potential impact, as well as collect other information determined for general and specific surveillance of listed pests in East Timor.

## **Section II**

### **Quarantine declarations**

#### **Article No. 60**

##### **Suspected presence of pest subject to quarantine**

1. When a phytosanitary inspector believes that a pest subject to the quarantine may be present in any area or facility, the inspector may enter that area or facility and inspect, collect samples or perform any interim phytosanitary measures on any plant, plant product or other regulated article suspected of hosting a pest subject to quarantine.
2. The phytosanitary inspector must immediately inform the CFN and ensure the immediate submission of a sample to a laboratory for analysis.
3. In order to prevent the pest spread while pending confirmation of its presence, the CFN can implement as provisional measures any restrictions or order the implementation of any phytosanitary measure, including emergency actions for a specified period.

#### **Article No. 61**

##### **Quarantine declaration**

1. Whenever the DGQB confirms the presence of a quarantined pest in any area or facility and upon recommendation by the CFN, the Minister must issue a quarantine declaration.
2. After the opinion of the CFN, the Minister must declare the infected area by ministerial order.
3. The quarantine declaration must define its geographical scope, the quarantine period, the phytosanitary measures to be taken to prevent the spread of the plague and the conditions for subsequent renewals, and the other stipulated elements.
4. DGQB must regularly review the quarantine declaration and the conditions that require its maintenance.
5. DGQB must notify the measures in place, in writing, to the owners of facilities located in the quarantined area and, additionally, communicate with them verbally to ensure that all personnel in the area are aware of the applicable restrictions and requirements.

#### **Article No. 62**

##### **Procedures in response to a quarantined pest**

1. DGQB shall establish the procedures to be followed by phytosanitary inspectors when the presence of a pest subject to quarantine is suspected or confirmed and the procedures for actions to be taken in buffer zones.

2. Phytosanitary inspectors must notify in writing the owner or occupant of the area in which the presence of a pest subject to quarantine or buffer areas has been detected or suspected, and the notification may specify the following:
  - a) The boundaries of the quarantine area;
  - b) The actions that the owner or occupant must take to contain or eradicate the pest;
  - c) Any restrictions, bans or other measures to be applied in the area under quarantine;
  - d) The duration of the quarantine period or the duration of the measures that must be adopted.
3. The CFN may, as the case may be:
  - a) Inform the phytosanitary protection organization of trading partners, neighbouring countries and any relevant international organizations when necessary;
  - b) Review the issuance of any recent phytosanitary certificates for the quarantine area against the countries' requirements to which East Timor exports;
  - c) Suspend exportation certification when necessary.
4. Whenever the owner or occupant of the premises fails to comply with the notification within the period provided for therein, the CFN may authorize a phytosanitary inspector to enter the premises and adopt the necessary measures to limit the spread or eradicate the pest.
5. The owner of the plant, plant product or other regulated item shall be held responsible for paying the costs of any action taken on its premises, except where the Minister, after advice from the CFN, determines that the Government of East Timor assumes responsibility for the associated costs and may pay compensation under Article No. 93.

### **Article No. 63**

#### **Quarantine repeal**

1. Whenever the DGQB determines that the pest subject to quarantine is no longer present or that maintenance of the state of quarantine is no longer appropriate for part or all of the area or facility, the CFN shall recommend to the Minister that the declaration of quarantine be revoked.
2. DGQB must notify all owners or occupants of the area or premises affected by the revocation of the quarantine declaration in writing.

### **Article No. 64**

#### **Motion controls**

1. DGQB may determine restrictions or prohibitions on the movement of regulated articles during emergencies or in quarantine areas, buffer zones or other designated areas, locations or facilities.

2. Any restrictions on movement must be justified based on a risk assessment and be subject to a specific deadline.
3. While a prohibition, according to Paragraph No. 1, is in force, no one may:
  - a) Remove from or take into the quarantine area, buffer zone or similar area, place or unit any regulated article covered by a restriction or ban on the movement made under this law without written authorization issued by a phytosanitary inspector;
  - b) Leaving the quarantine area without having complied with the reasonable precautions that the phytosanitary inspector may require to prevent the spread of the pest subject to quarantine.
4. Any communication with the owner or person responsible for the regulated article must be in writing and delivered in person, and, in addition, oral communication may be required to facilitate that person's understanding of the requirements.

### **Section III**

#### **Phytosanitary emergency**

##### **Article No. 65**

##### **Phytosanitary emergency responsive plan**

1. DGQB must develop a phytosanitary emergency response plan to create contingency arrangements and identify specific contingency measures for each pest and phytosanitary measures to be taken in response to the emergency.
2. The phytosanitary emergency response plan must be prepared by the DGQB and subject to comprehensive consultation, including regional and local authorities and community leaders' participation, and updated annually.

##### **Article No. 66**

##### **Phytosanitary emergency declaration**

1. Whenever there is a severe threat to plant resources, the environment of East Timor, food security or other stipulated conditions, CFN may recommend that the Minister declare a phytosanitary emergency.
2. The Minister shall implement the phytosanitary emergency response plan, and the CFN shall coordinate emergency assistance and response from other ministries, departments and persons as identified in the phytosanitary emergency response plan.
3. Upon advice from the CFN, the Minister may request and is entitled to receive the cooperation of the ministries responsible for health, environment, trade, disaster prevention and response, civil protection, security forces and other public authorities to respond to the phytosanitary emergency, in compliance with CFN technical instructions.

4. Any statement made pursuant to this Article must be time-bound, assess the level of risk, ensure it is appropriate, and limit it to only what is necessary to reduce the threat.
5. The statement must be subject to periodic review and evaluation by the DGQB.
6. The Ministry shall ensure that information on the phytosanitary emergency declaration and the measures to be taken are widely published and disseminated to the general public, stakeholders and other ministries.

#### **Article No. 67**

##### **Revocation of the phytosanitary emergency declaration**

Whenever the Ministry determines that it is no longer appropriate to maintain the state of phytosanitary emergency, the CFN advises the Minister to revoke the declaration through a ministerial order.

#### **Article No. 68**

##### **Operating budget for response to phytosanitary emergencies**

The operating budget to be used exclusively for phytosanitary emergencies after the declaration of a phytosanitary emergency, under the terms of this law, comes from the budget allocated to the Ministry.

### **Section IV**

#### **Pest-free areas, low occurrence areas, pest-free sites and production units**

#### **Article No. 69**

##### **Pest-free area declaration**

1. Whenever the DGQB confirms that a regulated pest is not present in an area, that phytosanitary measures have been implemented to keep the area free of the pest, and that surveillance systems have been put in place to verify that area, site or unit remains free, the CFN may recommend to the Minister that declares the area pest-free.
2. After the opinion of the CFN, the Minister must declare the area free of pests by ministerial order.
3. Whenever any area loses its status as a pest-free area, the CFN must advise the Minister to revoke the pest-free area declaration.

#### **Article No. 70**

##### **Declaration of low pest occurrence area**

1. Whenever the DGQB is satisfied that any regulated pest is low prevalent in an area or that phytosanitary measures have been implemented to keep the area pest-free and surveillance systems in place to verify that the area has a low occurrence of pests, the CFN should advise the Minister to declare the area as an area of low occurrence of pests.
2. After the opinion of the CFN, the Minister must declare the area of low occurrence of pests by ministerial order.
3. Whenever any area loses its low pest status, the CFN must advise the Minister to revoke the declaration.

#### **Article No. 71**

##### **Pest-free sites and production units**

When DGQB confirm that a regulated pest is not present at a site or farm, that phytosanitary measures are in place to keep the site or farm free from pests, and that surveillance systems are in place to verify that the site or farm is free of pests, the CFN should advise the Minister to declare the site or production unit pest-free, as appropriate.

#### **Chapter VIII**

##### **Execution**

##### **Section I**

##### **Powers of phytosanitary inspectors**

#### **Article No. 72**

##### **Conduct, rights and obligations**

1. The phytosanitary inspector must carry out his duties in accordance with the legislation applicable to public servants.
2. In performing any obligation under this law, the phytosanitary inspector must self-identify, showing an identification card or other proof of an appointment or designation as a phytosanitary inspector.
3. Whenever a phytosanitary inspector suspects that the rules of this law have been or are being violated, he/her may conduct investigations and request information or documentation.
4. In performing any obligation under this law, the phytosanitary inspector may request and is entitled to receive assistance from the police and other security forces as the CFN deems necessary for the adequate performance of the functions of the phytosanitary inspector.
5. The phytosanitary inspector can be accompanied by a dog or bring and use any object that helps exercise inspection power.



6. No one may block or impede the work of the phytosanitary inspector, and any person who is the subject of an inspection or who owns or is responsible for a thing subject to inspection must render all assistance and cooperation to the phytosanitary inspector.
7. The phytosanitary inspector may require the owner or person responsible for the regulated article or the establishment to provide assistance or carry out such instructions as may be reasonably necessary to facilitate the performance of their duties or to apply the provisions of this law.
8. Whenever authorized by the CFN, the phytosanitary inspector may make announcements, issue warnings and provide information on phytosanitary issues.
9. The phytosanitary inspector must conduct inspections immediately, without delay and in a manner that facilitates business and trade.

### **Article No. 73**

#### **Rights during inspection**

1. Any person subject to inspection or who owns or is responsible for facilities subject to inspection is entitled to accompany the phytosanitary inspector at all times during the inspection.
2. Any owner or person responsible for a plant, plant product, or other regulated article has the right to receive information about the reasons for the inspection.

### **Article No. 74**

#### **Notification of phytosanitary measures**

1. Any phytosanitary inspector who seizes, retains, eliminates or destroys any plant, plant product or other regulated article under the terms of this law must immediately notify, in writing, the owner or the responsible person, in a stipulated form, immediately signed by the notified. The notification must include a description of the measures taken or to be taken, the prohibited activity, and the corresponding grounds.
2. Whenever necessary, in addition to the notification provided for in the previous number, the phytosanitary inspector must orally communicate its content to the notified person in order to facilitate their understanding.
3. When the owner or responsible person is not present on the premises, the phytosanitary inspector must post the notification in a visible place and, as soon as possible, proceed with the personal notification.
4. Whenever it is impracticable to justify the seizure or when the situation requires emergency action, the phytosanitary inspector may not inform the owner of the reason for the confiscation. The inspector must notify the owner or the responsible person within 48 hours of the action.

5. The phytosanitary inspector may notify in writing the owner of any areas or facilities or of a regulated article of the obligation to implement one or more of the phytosanitary measures within the scope of this statute, within a defined period of time.
6. The phytosanitary inspector may notify in writing the owner of any areas or facilities or of a regulated article of the obligation to implement one or more of the phytosanitary measures within the scope of this statute within a defined period.
7. The phytosanitary inspector must present a copy of any written notification to the DGQB within 72 hours of its issuance.

### **Article No. 75**

#### **Documentary inspection**

During the inspection, the phytosanitary inspector may take photographs or ask the owner or person in charge of the area or premises for any information relating to the regulated article, including official documents, and may examine them, make copies or extract extracts from any books, statements or any other documents found in that area or facilities, as well as asking the owner or responsible person for an explanation of any information contained in these documents.

### **Section II**

#### **Implementing measures**

### **Article No. 76**

#### **Sampling, measurements and phytosanitary actions**

1. In order to avoid the introduction or spread of pests, the phytosanitary inspector can carry out any stipulated phytosanitary measures or actions as prescribed in the inspection manual and CFN instructions.
2. The phytosanitary inspector may enter any area or establishment in order to inspect any plant, plant product or regulated article that is stored or being transported or any growing area, as well as inspect a shipment for importation, transit or exportation, and also:
  - a) Inspect, examine and take samples of any plant, plant product, regulated article or its packaging or container, and may send these samples to be analysed in an official laboratory;
  - b) Conduct the phytosanitary measures defined in the inspection manual and CFN instructions.
3. Except with the owner's consent given under this law or by order of the court, the phytosanitary inspector may not enter a dwelling.
4. The owner of any plant, plant product or other regulated article may request a second test of a sample collected under this law, and, in this case, the phytosanitary inspector must

ensure that the confiscated samples or articles remain under the custody of the DGQB is either stored or quarantined, as stipulated by the DGQB, until the results of the second test are available.

5. The cost of testing, maintenance, quarantine or storage under this article shall be the responsibility of the owner of the sampled or confiscated plant, plant product or other regulated article.

### **Article No. 77**

#### **Apprehension of objects and subsequent actions**

1. The phytosanitary inspector may seize any regulated article, electronic devices or other objects that seem to serve as evidence of a violation of the provisions of this law and must immediately notify the seizure, in writing, to the owner, who signs the notification.
2. Whenever a phytosanitary inspector takes possession of a document under the terms of the previous number, he must make a certified copy of the document with the competent authority, under the terms of the applicable legislation, as being a faithful copy, and all copies thus certified are admissible evidence in all courts as if they were original.
3. DGQB may store, treat, quarantine or dispose of plants, plant products or other regulated articles at the place where it was seized or move it to any other place for storage, treatment, quarantine or disposal following the procedures defined by the Ministry, or require the owner or responsible person to take the specified action.
4. The plant, plant product, other regulated article, or other thing confiscated and seized under the terms of this law must not be seized after determination by the DGQB that the plant, plant product, other regulated article or something else complies with the provisions of this statute.
5. The CFN may order the destruction or disposal of a plant, plant product or other regulated article or require its owner or responsible person to dispose of it when it has been or is suspected of being infested with a pest.
6. No person may remove or interfere in any way with a regulated article or other thing seized and retained under this law.

### **Article No. 78**

#### **Vehicle stop and inspection**

1. Whenever there is reasonable reason to believe that this law is being violated, the phytosanitary inspector may stop and search any vehicle.
2. Whenever the phytosanitary inspector is convinced that there has been a failure on the part of the captain or driver of any vehicle regarding compliance with a requirement of this law or a condition imposed under it and that this represents a danger to phytosanitary, he must inform the CFN immediately, being able to:

- a) Detain or stop the vehicle for a maximum period of four hours, and must immediately request confirmation of this measure from the CFN and, whenever relevant, inform the customs authorities;
  - b) Notify the detention in writing to the driver or captain of the vehicle, justifying the non-compliance.
3. Upon receipt of the communication by the phytosanitary inspector under the terms of this article, the CFN must immediately order an investigation and maintain the detention or stop of the vehicle for a defined period for phytosanitary measures, as appropriate.

#### **Article No. 79**

##### **Disruption of distribution**

1. Whenever a phytosanitary inspector considers it necessary to interrupt the distribution to prevent the spread of pests or the violation of the provisions of this law, the phytosanitary inspector must ask the CFN to issue a written notification for the suspension of the distribution, sale or use of any plant, plant product or other regulated article for a stipulated period.
2. Whenever necessary, for phytosanitary reasons, the CFN may request the Minister to definitively prohibit the distribution or sale of any plant, plant product or other regulated item.
3. Following the opinion of the CFN, the Minister may notify, in writing, the owner or person in charge to immediately cease the distribution of any plant, plant product or other regulated Article, and the notification must contain the reasons for the cessation.

#### **Article No. 80**

##### **Confiscation and Disposal of Unclaimed Items**

1. DGQB may confiscate or dispose of any plant, plant product or other regulated article which, after it enters into East Timor, remains unclaimed for a stipulated period, in which case the Ministry shall notify the owner or responsible person, in writing, of the reason for its confiscation and destruction.
2. DGQB must claim the taken measures' costs under this Article from the owner or person responsible for the unclaimed regulated plant.

#### **Article No. 81**

##### **Issue of Ministry decisions**

1. In accordance with this decree, all requested documentation and any samples or other elements related to the application must be submitted when applying to the DGQB.

2. Whenever the DGQB request more information regarding an application submitted under the terms of the previous number in writing, the applicant must comply with the period indicated in the DGQB request.
3. Without prejudice to the deadlines for deciding established in the present law or a ministerial order, the DGQB decides on the application within 30 days of submission of all documents.
4. If the DGQB fails to follow the rules from the previous section, they must notify the applicant in writing before the deadline. They must explain why the extension is necessary and provide a new deadline for the decision.
5. Prior to the decision by the DGQB, the applicant must be notified in writing for a prior hearing.
6. Whenever an application is rejected, the applicant must be notified in writing and the notification must contain the reasons for the rejection and mention of the right of appeal.
7. Without prejudice to urgent measures that may be necessary for phytosanitary reasons, DGQB's decision takes effect after the end of the appeal period under the terms of this law.

#### **Article No. 82**

##### **Administrative resource**

1. Any person injured by an action or decision of a phytosanitary inspector or official analyst adopted under this statute may appeal, within 15 days from the date of the action or decision, to the CFN, in the stipulated manner.
2. When the person, following a CFN decision taken within 30 days, does not comply with it, he may appeal to the Minister within the stipulated time limits and in the manner stipulated.
3. The Minister decides on the appeal within the stipulated period.
4. The Minister's decision is final on technical matters, without prejudice to the right of appeal to the courts.
5. The right to appeal administratively does not remove the Ministry's right to take urgent phytosanitary actions whenever necessary.

#### **Article No. 83**

##### **Irresponsibility of the Ministry for measures taken in good faith**

1. The Government cannot be held responsible for losses resulting from the destruction or disposal of any plant, plant product or regulated Article under this law.
2. It is incumbent upon the Ministry to guarantee the safety of all DGQB personnel, official analysts, reference laboratory employees or government entities while performing their official duties under this law.

#### **Section III**

## **Infringements and other administrative sanctions**

### **Article No. 84**

#### **Very Serious Infringements**

1. It constitutes a very serious infringement, punishable by a fine of US\$1,000 to US\$75,000:
  - a) Cultivate, sell, offer for sale, transport or otherwise distribute any regulated article knowing that it is infected with a quarantined pest;
  - b) Allowing, introducing or intentionally causing the introduction or spread of a quarantined pest;
  - c) Distribute any regulated article that has been placed on escrow or as a result of an administrative offence or an inspection that has prohibited the distribution of that article;
  - d) Aggression, resisting, intimidating, threatening, abusing, or obstructing a phytosanitary inspector from exercising his legal powers under this law.
2. If there is a recurrence within a year (12 months), the limits mentioned in the previous point will be doubled, both the minimum and maximum.

### **Article No. 85**

#### **Serious Infringements**

1. Committing this offence can result in a significant misdemeanour charge, with a fine ranging from US\$1,000 to US\$50,000:
  - a) Failure to comply with any legal order or directive issued under the terms of this decree;
  - b) Import any plant, plant product or regulated article in violation of any stipulated requirement;
  - c) Export any plant, plant product or regulated Article except as stipulated;
  - d) Failure to ensure the phytosanitary safety of a consignment for export after issuing a phytosanitary certificate;
  - e) Not allow any search, inspection or collection of any sample authorized under the terms of this law;
  - f) Breaking the seal of a sealed container containing any plant, plant product or other regulated article, except in the presence of a phytosanitary inspector or when a customs officer does breaking in accordance with the applicable law provisions;
  - g) Consciously or unconsciously, providing false information for the purpose of obtaining any document under this decree;
  - h) Change, forge, deform or destroy any document issued under this law.
2. If there is a recurrence within a year (12 months), the limits mentioned in the previous point will be doubled, both the minimum and maximum.

**Article No. 86**

**Notification of fixed fine for minor offences**

Any minor offences that are not covered in the previous articles will result in a fine of US\$100. This penalty is in addition to any other fines that may be applicable in case the offence persists.

**Article No. 87**

**Suspension and revocation of licenses and authorizations**

1. Without prejudice to other sanctions that may be applied, the CFN may suspend or revoke any license or other authorization issued under this law.
2. In cases of serious or repeated violation, the DGQB may recommend the revocation of the commercial license and the closure of the establishment to SERVE or other authority that issued the commercial license or any other license to operate and, whenever it is not necessary to have a license, the DGQB may close the establishment.
3. Upon receipt of the recommendation in the previous number, the authority issuing the commercial license or other operating licenses must revoke the license within three days.

**Article No. 88**

**Offence by public official**

1. A phytosanitary inspector, official analyst or other DGQB official commits an infringement when:
  - a) Ask for or receive, directly or indirectly, any personal payment or other reward in connection with any official functions;
  - b) Agree to do, refrain from doing, authorize, hide or collaborate in any act or thing contrary to the correct performance of their official duties under the terms of this decree or other applicable legislation;
  - c) Disclose any information obtained in the performance of their official duties relating to any person, company or business, except as required by their supervisor in the exercise of official duties, including for cross-border cooperation, by court order or under Article No. 27;
  - d) Abuse of its powers granted under this law.
2. If found guilty by a court under this article, the phytosanitary inspector, official analyst or other officials of the DGQB may be dismissed or exonerated and no longer be reappointed, subject to the other sanctions applicable to public officials.

**Section IV**

**Sanction procedure**

## **Article No. 89**

### **Decision on the penalty for infringement**

1. Whenever the phytosanitary inspector reasonably believes that a person has violated any of the provisions of this law, he must communicate this information to the CFN, which, based on an opinion issued by the respective legal support unit, determines whether the following:
  - A) The infraction may constitute a criminal sanction and, in this case, notify the competent authority for criminal action;
  - B) An administrative sanction must be applied in accordance with Articles No. 84 to No. 88 and the following number of this article; or
  - C) It is possible to consider the application of both options.
2. Concerning the payment of fines, the phytosanitary inspector can issue a fine on the spot to the violator, which indicates that the violator can either appear before the contracting authority per the applicable procedures after notification or pay the fine to the stipulated authority.
3. Whenever the offender does not pay the fine within the stipulated period, the CFN must decide whether the following:
  - A) Gives the offender more time to pay the fine;
  - B) Increases the fine amount to be paid, upon written notification, which defines a new deadline for payment; or
  - C) Refer the case to the contracting authority.

## **Article No. 90**

### **Criteria for determining sanctions**

When considering the seriousness of the offence and the sanction to be applied, the CFN must consider, supported by an opinion issued by the respective legal support unit:

- a) The harm or threat of harm caused by the breach;
- b) Intent or negligence;
- c) The economic situation of the offender;
- d) The benefit the offender gained from the offence;
- e) The recurrence.



## **Article No. 91**

### **Confiscation**

1. When someone is convicted of an offence under this law, the contracting authority may, in addition to any other sanction imposed, order that any *item* used in the commission of the offence be confiscated in the State's favour.
2. In cases where the court does not order the regulated article confiscation, that article or any product derived from its disposal must be returned to the owner or the person responsible for its seizure, unless such return constitutes a phytosanitary risk, in which case the object is destroyed.
3. The CFN must determine, at the expense of the owner of the regulated article, the appropriate way for its custody when it is seized or confiscated under the present law before its disposal by the contracting authority.
4. The CFN shall ensure that any decision taken under this Article does not create a risk of pest entry or spread and shall apply the provisions of Article No. 76 if such threat exists.
5. If no appeal is lodged prior to the transit of the decision, any confiscated item is destroyed, sold, rented or donated to charity following the offender's conviction.
6. Proceeds from any sale of any item confiscated in accordance with this section shall be deposited with the Banco Nacional de Comércio de Timor-Leste, SA (BNCTL).

## **Chapter IX**

### **Final dispositions**

## **Article No. 92**

### **Costs of phytosanitary actions**

1. Except where the Minister, upon advice from the CFN, determines that the Government should assume responsibility for the associated costs for reasons that may be stipulated, the owner of a regulated article or shipping facility is responsible for paying any actions expenses taken concerning its property or facilities.
2. The costs relating to actions within this law scope and the method used to calculate them are defined in regulations.

## **Article No. 93**

### **Indemnity**

1. Upon CFN recommendation, the Minister may determine the payment of an indemnity in the following cases:

- a) In quarantine areas or buffer zones, during a declaration of emergency, when treatment is required at the facility, when there is a ban or restriction on the use of the facility, or when the facility's owner or regulated articles are affected by pest eradication measures;
  - b) If the affected person's economic circumstances and means of subsistence require the Government to compensate the premises owner or regulated article for phytosanitary actions taken under this statute.
2. Compensation shall not be paid to anyone who commits an offence under the terms of this law and claims compensation in respect of any facilities or thing through or in connection with which the offence was committed.
  3. The amount and method of payment of compensation is defined by ministerial order.

#### **Article No. 94**

##### **Dispute resolution with business partners**

The CFN shall establish consultation and information exchange procedures with national phytosanitary organizations of trading partners for bilateral consultations for dispute resolution without prejudice to the right to seek international dispute resolution mechanisms.

#### **Article No. 95**

##### **Fees collection**

1. Based on the applicable law regarding cost recovery, the DGQB has the authority to assess fees for various services, including inspections, sampling and analysis, license processing and issuance, and other Ministry services, as outlined in this decree. The fees charged must be solely based on actual cost recovery.
2. The Minister must approve, by order, the value of the fees provided for in this statute and respective regulations.

#### **Article No. 96**

##### **Documents and declarations**

1. Any document or declaration that must be produced under the present law or any regulation may be provided in electronic format as stipulated under the rules that govern electronic transactions and that are defined by the Minister in a ministerial order, in consultation with the Information and Communication Technologies Agency, IP - ICT TIMOR.
2. DGQB shall establish the requirements for creating, receiving, storing, sharing and sending phytosanitary certificates in electronic format.

**Article No. 97**

**Regulations**

1. Unless otherwise provided, all regulations provided for in this law must be approved by the Minister through a ministerial order.
2. When the law attributes to the Ministry the competence for the approval of technical rules, they are published in the official gazette by order of the Minister.
3. All approved legislation and regulations must be publicized through the *website* of the Ministry.

**Article No. 98**

**Effective Date**

This decree comes into force three months after its publication.

Approved by the Council of Ministers on March 15, 2023.

The Prime Minister,  
Taur Matan Ruak

The Minister of Agriculture and Fisheries,  
Pedro dos Reis

Enacted on

To be published.

The President of the Republic,  
José Ramos-Horta