

DECREE-LAW ON PLANT HEALTH AND QUARANTINE - RECOMMENDATIONS

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE
THE GOVERNMENT**

**Decree-Law No. ____/2017
Plant Health and Quarantine**

As the Democratic Republic of Timor-Leste moves towards greater integration in the international trade system, deals with the increased flow of goods into and from the country, and as the Government places an increased emphasis on food security, crop production, and investment in agriculture, this Decree-Law provides a strong and effective framework to set out mechanisms for the protection of the country's plants and plant products as well as its agricultural activity and environment.

The objectives of this Decree-Law are to provide a clear, efficient and conducive framework for the operation of trade and business activities, and to empower public officials to support the private sector and to protect plants and plant products, in areas under cultivation or in the wild, from pests and diseases that may harm these resources, the economy, and negatively impact food security.

The Decree-Law establishes a legal foundation for the import and export of plants, plant products and other regulated articles, establishes a framework for domestic surveillance, sets out procedures for responses to the detection of regulated pests, and sets up a framework for phytosanitary measures in general. The Decree-Law creates a framework for the enforcement of provisions by establishing the roles of the responsible Government authority, their powers, and the means by which the rules are enforced. The framework established in this Decree-Law shall be further elaborated through Government Decrees and other implementing regulations which shall set out procedures and other technical details.

Therefore, pursuant to Article 115.1 of the Constitution of the Democratic Republic of Timor-Leste, the Government decrees the following, which shall have the force of law:

CHAPTER I - GENERAL PROVISIONS

Article 1. Objective

The objective of the present Decree-Law is to establish a phytosanitary framework in Timor-Leste to prevent the introduction and to control the spread of plant pests, to protect plant resources, and to facilitate trade in plants and plant products.

Article 2. Scope of application

This Decree-Law shall apply to the entire national territory of Timor-Leste.

Article 3. Definitions

For the purposes of the present Decree-Law,

“affected” means infected or infested with a pest;

“AIFAESA” means the Authority of Inspection and Supervision of the Economic, Sanitary and Food Activities as established under Decree-Law No 26/2016;

“area” means an officially defined whole or part of Timor-Leste and includes a place or site of production;

“area of low pest prevalence” means an area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures;

“area under cultivation” includes a field, plantation, nursery, garden, greenhouse or laboratory;

“beneficial organism” means any organism (including fungi, bacteria, viruses, virus-like organisms and invertebrate, other animals or plants) which is declared by the Minister in a Ministerial Diploma to be beneficial to flora or agricultural production;

“consignment” means a quantity of plants, plant products or other regulated articles being moved from or to Timor-Leste and covered, when required, by a single phytosanitary certificate;

“containment” means to apply phytosanitary measures in and around an affected area to prevent the spread of a pest;

“container” means a box, bag, wrapper, covering or other receptacle in which any plant, plant products or other regulated articles has been or is being transported;

“control” means the suppression, containment or eradication of a pest population;

“conveyance” means any vessel, aircraft, train, vehicle, cart, container, animal or other thing that can convey a plant, plant product, pest, beneficial organism or other regulated article from one place to another;

“Chief Plant Protection Officer” or “CPPO” means the Head of the NPPO, as appointed by the Minister;

DRAFT DECREE-LAW

“detention” means keeping a consignment in official custody or confinement, as a phytosanitary measure;

“emergency measure” means a phytosanitary measure established as a matter of urgency in a new or unexpected phytosanitary situation - an emergency measure may or may not be a provisional measure;

“endangered area” means an area where ecological factors favour the establishment of a pest whose presence in the area will result in economically important loss;

“entry”

(a) in relation to a pest, means the movement of a pest into an area where it is not yet present, or present but not widely distributed and being officially controlled;

(b) in relation to a consignment, means the movement of the consignment through a point of entry into an area;

“eradicate” means to apply phytosanitary measures to eliminate a pest from an area, and **“eradication”** shall have a corresponding meaning;

“establishment” means the perpetuation, for the foreseeable future, of a pest within an area after entry;

“exporter” means any person who, whether as owner, consignor, consignee, agent or broker, is in possession of, or in any way entitled to the custody or control of any plant, plant product or regulated article to be taken out of Timor-Leste;

“germplasm” means a plant intended for use in breeding or conservation programmes;

“importer” means any person by or for whom the goods any plant, plant product, pest, beneficial organism or other regulated article is landed or likely to be landed in Timor-Leste from a point outside Timor-Leste and includes the consignor, consignee, broker, agent or a person who is or becomes the owner of, or who is entitled to the possession of, or who is beneficially interested in such regulated article at and from the time of importation thereof until completion of import formalities;

“infestation” means the presence in a commodity of a living pest of the plant or plant product concerned - infestation includes infection;

“inspection” means official visual examination of a plant, plant product or other regulated article to determine if pests are present or to determine compliance with this Decree-Law and phytosanitary regulations, and shall include documentary inspections of documents accompanying a plant, plant product or other regulated article;

“inspector” means an inspector designated in accordance with article 11 of this Decree-Law;

“introduction” means the entry of a pest resulting in its establishment in Timor-Leste;

“invasive alien species” means an alien species that by its establishment or spread has become injurious to plants, or that by risk analysis is shown to be potentially injurious to plants;

“IPPC” means the new Revised Text of the International Plant Protection Convention;

“IPPC Secretariat” means the Secretariat of the Commission on Phytosanitary Measures established under the International Plant Protection Convention;

“living modified organisms” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“Minister” means the Minister responsible for agriculture;

“national pest of concern” means a non-regulated pest with a significant economic impact whose biological and epidemiological characteristics determine that its control in Timor-Leste must be performed at more than a local level, requiring the official intervention of the NPPO for its management within Timor-Leste, for technical coordination or for enforcement;

“official” means established, authorized or performed by the NPPO;

“official control” means the enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests;

“outbreak” means a recently detected pest population, including an incursion, or a sudden significant increase of an established pest population in an area;

“owner” in relation to anything, includes any person having for the time being the possession, custody or control thereof;

“packaging” means any material used to pack, contain or keep a plant, plant product or other regulated article;

“pest” means any species, strain or biotype of any plant, animal or pathogenic agent injurious to a plant or plant product;

“pest free area” means an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained;

“pest free place of production” means a place of production in which a specific pest is absent as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained for a defined period;

“pest free production site” means a production site in which a specific pest is absent, as demonstrated by scientific evidence, and in which, where appropriate, this condition is being officially maintained for a defined period;

“pest risk analysis” means the process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

“phytosanitary action” means the conduct of an official procedure, such as inspection, testing, surveillance or treatment, or official control undertaken to implement any phytosanitary measure;

“phytosanitary certificate” means an official paper document or its official electronic equivalent, consistent with the model certificate of the IPPC attesting that a consignment meets phytosanitary import requirements;

“phytosanitary measure” means any legislation, regulation or official procedure having the purpose of preventing the introduction or spread of quarantine pests, or limiting the economic impact of regulated non-quarantine pests;

“plant product” means any un-manufactured material of plant origin (including grain) and a manufactured product which, by its nature or that of its processing, may create a risk for the introduction and spread of a pest;

“plant” means any living plant and the parts thereof, including a seed or germplasm;

“point of entry” means an airport, seaport or a land-border officially designated for the importation or exportation of consignment or arrival of passengers;

“pre-clearance” means phytosanitary certification or clearance in the exporting country, performed by or under the supervision of the Timor-Leste NPPO;

“premises” means any land, building or other structure or conveyance or any marine area;

“prescribed” means prescribed by this Decree-Law or any regulations made under this Decree-Law;

“quarantine” means official confinement of plants, plant products or other regulated articles for surveillance and research or for further inspection, testing or treatment;

DRAFT DECREE-LAW

“quarantine area” means an area where a quarantine pest is present and is being officially controlled;

“quarantine pest” means a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled, and declared as such by Ministerial Regulation;

“regular business hours” means the established working hours as prescribed;

“regulated article” means any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved, and includes a beneficial organism;

“regulated non-quarantine pest” means any pest which is not a quarantine pest and whose presence in a plant for planting affects the intended use of the plant with an economically unacceptable impact and which is therefore regulated in Timor-Leste and declared as such by Ministerial Regulation;

“regulated pest” means a quarantine pest or a regulated non-quarantine pest;

“soil” means material wholly or partly derived from the upper layer of the earth’s crust which is capable of sustaining plant life and which contains solid organic substances such as parts of a plant, humus, peat or bark, but excluding any medium which is sterile, composed entirely of unused peat or otherwise incapable of harbouring or transmitting pests;

“suppression” means the application of phytosanitary measures in an affected area to reduce a pest population;

“surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;

“sell” includes to offer, advertise, keep, store, display, transmit, consign, convey or deliver for sale, or to exchange or to dispose of to any person in any manner whether for a consideration or otherwise, and “sold”, “selling” and “sale” shall have corresponding meanings;

“SERVE” means Service for Registration and Verification of Entrepreneurs as established under Decree-Law No 35/2012.

“treatment” means an officially authorized procedure for the killing or removal of pests or rendering pests infertile or for devitalization.

“this Decree-Law” means this Decree-Law and any decrees, regulations, orders or notices issued under it;

“vehicle” means any vessel, aircraft, train, conveyance, cart, container, animal or other thing that can transport plants, plant products or other regulated articles from one place to another.

2. The definitions under this article shall be interpreted with regard to ISPM No 5 (Glossary of Phytosanitary Terms) of the IPPC, as may be amended from time to time.

CHAPTER II - NATIONAL PLANT PROTECTION ORGANIZATION

Section I. Establishment and functions of the National Plant Protection Organization (NPPO)

Article 4. Establishment of the NPPO

1. There is hereby established a National Plant Protection Organization for Timor-Leste. In accordance with the organic structure legislation approved by the Government setting out the functional structure and organization of the Ministry responsible for agriculture, the Minister shall further elaborate in a Ministerial Diploma which divisions are responsible for their respective functions of the NPPO as set out in article 5 of this Decree-Law, in such manner as to establish a clear institutional framework for enforcement of this Decree-Law and to establish a clear chain of command.
2. The specific responsibilities assigned to the respective Directorates identified in subsection (1) shall be further set out in organic structure legislation for the Ministry of Agriculture as determined by the Government.
3. The Minister shall transmit the name and description of the structure to the IPPC Secretariat.

Article 5. Functions of the NPPO

The functions of the NPPO shall be to:

- i. prevent the introduction of and entry into Timor-Leste of regulated pests including invasive alien species, living modified organisms and biological control agents;
- ii. prevent and control the spread of regulated pests and national pests of concern in Timor-Leste, including invasive alien species, living modified organisms and biological control agents;
- iii. propose, review, prepare, implement and enforce the phytosanitary measures established by the Minister under this Decree-Law;

DRAFT DECREE-LAW

- iv. enable public consultations during the development of phytosanitary measures;
- v. conduct pest risks analyses;
- vi. inspect and test any plant and plant product or regulated article, where appropriate, inspect any other regulated article, for the purpose of preventing the introduction and spread of pests;
- vii. carry out surveillance of any growing plant, including areas under cultivation and wild flora, and of any plant and plant product in storage or in transport, for the purpose of reporting the occurrence, outbreak and spread of pests, and of controlling those pests;
- viii. make determinations of quarantine areas, pest free areas, endangered areas and buffer zones;
- ix. protect endangered areas, and designate, maintain and survey pest free areas, and places of production and areas or places of production of low pest prevalence;
- x. develop a list of quarantine pests, a list of regulated non-quarantine pests, a list of regulated articles and a list of pests of national concern;
- xi. develop pest diagnostics, investigative and analytical capabilities;
- xii. establish official laboratories for testing;
- xiii. disinfest or disinfect any plant, plant product and other regulated article;
- xiv. issue import permits;
- xv. conduct pre-clearance inspections where requested;
- xvi. require phytosanitary action as conditions or prohibitions of import of plants and plant products and other regulated articles;
- xvii. issue phytosanitary certificates for export or re-export and transit;
- xviii. ensure the phytosanitary security of consignments after certification and before export;
- xix. establish auditing and trace-back procedures for any plant, plant product and other regulated article for phytosanitary certification;
- xx. ensure the disinfestation where appropriate, of consignments of regulated articles intended for import into or export from Timor-Leste, as well as their containers, packaging, storage places and transport facilities;
- xxi. ensure that waste from vehicles, aircraft arriving in Timor-Leste, ships or other vessels arriving at seaports of Timor-Leste, or premises where regulated articles are handled or stored does not pose a risk to plant health;
- xxii. notify phytosanitary measures to other countries in accordance with international obligations, provide information to other countries concerning phytosanitary measures applied, either through pest risk analysis or by reference to applicable international standards, and
- xxiii. provide information regarding the phytosanitary status of an area or Timor-Leste;
- xxiv. notify trading partners of relevant instances of non-compliance with import requirements that may be prescribed;

- xxv. represent Timor-Leste in bilateral, regional and international forums related to phytosanitary matters;
- xxvi. establish minimum qualifications for, and oversee the training and development of, inspectors and other NPPO staff;
- xxvii. research and investigation in the field of plant protection;
- xxviii. distribute information regarding regulated pests and the means of their prevention and control;
- xxix. communicate and coordinate with local authorities and community leaders as necessary and provide them with the necessary technical assistance and training to implement this Decree-Law at the local level;
- xxx. supervise and control quarantine stations and related quarantine activities.
- xxxi. establish procedures for the approval of any quarantine station, official analyst, official laboratory or any other person or institution from the public or private sector involved in the implementation phytosanitary functions;
- xxxii. carry out any other function that the Minister considers necessary for the purposes of this Decree-Law.

Article 6. Delegation of functions of the NPPO

1. The NPPO may, by written agreement or contract, designate any person who has the prescribed qualifications, and who has no conflict of interest in the matters to be delegated, to perform any of its duties under this Decree-Law.
2. Where required the NPPO shall carry out training to ensure that the persons carrying out delegated functions have the required expertise to effectively execute their functions.
3. The NPPO shall not delegate the following functions:
 - i. issuance of a phytosanitary certificate;
 - ii. official liaison duties with other Ministries or foreign authorities, or any notification responsibilities to other Ministries or foreign authorities;
 - iii. approval of phytosanitary measures or requirements;
 - iv. other functions as may be prescribed by regulations.

Article 7. Agreement or contract of delegation

The agreement or contract of delegation between the NPPO and the individual, public or private entity to whom functions shall be delegated, shall specify such functions, shall comply with other Timor-Leste contract legislation and shall include at least the following aspects:

- i. the applicable time-period;
- ii. the specific tasks covered by the delegation and any particular methodologies to be used where appropriate;
- iii. the mechanisms for control and supervision of delegated functions;
- iv. the financial remuneration for the performance of delegated functions;

- v. the competencies and skills required by the person or entity to whom the function has been delegated; and
- vi. the conditions of withdrawals of delegations.

Section II – Personnel

Article 8. Ministerial supervision and powers

The primary responsibility for the administration and implementation of this Decree-Law lies with the Minister responsible for agriculture. The Minister shall, upon the advice of the Chief Plant Protection Officer of the NPPO:

- i. recommend to the Public Service Commission the phytosanitary inspectors, official analysts and other officials are required under this Decree Law;
- ii. designate official and reference laboratories and quarantine stations;
- iii. declare a quarantine area and pest free area;
- iv. declare a phytosanitary emergency
- v. designate points of entry and exit for the purposes of this Decree-Law
- vi. approve regulations under this Decree-Law; and
- vii. carry out other tasks, as prescribed by this Decree-Law.

Article 9. Chief Plant Protection Officer of the NPPO

The Minister shall appoint a person with the prescribed qualifications to serve as the Chief Plant Protection Officer, hereafter abbreviated as CPPO, and Head of the NPPO for Timor-Leste. The Chief Plant Protection Officer shall serve as the chief technical adviser to the Minister on phytosanitary matters and shall be responsible for leading, supervising and directing the NPPO.

Article 10. Designation of IPPC contact point

The Minister shall appoint an official of the NPPO to serve as the IPPC Contact Point.

Article 11. Appointment of phytosanitary inspectors

1. The Minister shall, upon the advice of the Chief Plant Protection Officer, recommend any person that meets the prescribed qualifications to the Public Service Commission to be appointed as a phytosanitary inspector under this Decree-Law.
2. Any person appointed as a phytosanitary inspector who has personal or commercial interest in a matter involving the NPPO shall declare such interest, and where such interest is in conflict with the impartiality and independence of the phytosanitary inspector, the Chief Plant Protection Officer shall recommend to the Minister to recommend withdrawal of the appointment to the Public Service Commission.
3. The Minister shall, upon the advice of the Chief Plant Protection Officer, prescribe the qualifications and experience required of a phytosanitary inspector in regulations.
4. The NPPO shall ensure its phytosanitary inspectors are appropriately trained.

Article 12. Designation of laboratories and analysts

1. The Minister shall, upon the recommendation of the Chief Plant Protection Officer, designate any diagnostic, research or other laboratory to be an official laboratory or a reference laboratory and any analysts to be official analysts for the purposes of analysing samples taken in accordance with this Decree-Law.
2. Any laboratory or analyst designated under this article shall meet the requirements prescribed in regulations, including the requirements of impartiality and independence.

Section III - Coordination, consultation and cooperation

Article 13. Plant health committee

1. The NPPO shall establish a Plant Health Committee comprising such members as shall be prescribed by regulation, which shall include, at minimum the following representatives: the Ministries responsible for trade, environment, health, AIFAESA, importers and exporters, academic and research institutions, and local government. The Plant Health Committee shall appoint members for a period not exceeding three years and shall ensure broad and representative inclusion of the private sector.
2. The Plant Health Committee shall serve in an advisory capacity in support of the NPPO, and shall:
 - (a) exchange information on phytosanitary matters;
 - (b) serve as a mechanism for coordination of relevant stakeholders and members of the Plant Health Committee;
 - (c) share scientific advice on phytosanitary matters;
 - (d) serve as a mechanism of regular and periodic consultation, including inviting broader public and private stakeholders that may not be members of the Plant Health Committee, on matters relating to phytosanitary policy and regulations, international trade and other matters related to the implementation of this Decree-Law; and
 - (e) provide inputs on phytosanitary legislation, programs, policies and emergency response plans.
3. The operational and procedural rules of the Plant Health Committee shall be as prescribed in regulations.

Article 14. Biosecurity Working Group

The Minister shall establish a Biosecurity Working Group, which shall explore biosecurity approaches to protecting animal health and plant health with a view to enabling efficiency and effectiveness at the border.

The NPPO shall appoint officers to serve on the Biosecurity Working Group to provide expertise on phytosanitary matters alongside officers appointed by the Veterinary Authority established in Decree-Law on Animal Health and Quarantine No. ____/2017.

Article 15. Duty to assist and cooperate

1. The Ministries and other bodies that are responsible for Customs, ports and airports, airlines and shipping, post, police, local authorities, public health, the environment and other public authorities as may be relevant, shall assist NPPO inspectors and officials in the performance of their functions and exercise of their powers under this Decree-Law by providing such facilities and assistance as the NPPO may request from time to time.
2. The Minister may establish working arrangements including agreements, working committees and other mechanism to enable multi-sectoral collaboration and coordination.

Article 16. Collaboration and working arrangements with AIFAESA

The Authority of Inspection and Supervision of the Economic, Sanitary and Food Activities, hereafter AIFAESA, and the NPPO shall establish working arrangements relating to controls over foods of plant origin in order to:

- (a) enable collaboration in accordance with article 6 and article 7 of Decree-Law No 26/2016, in particular:
 - (i) at the border;
 - (ii) during food production; and
- (b) ensure that the goals and objectives of both the NPPO and AIFAESA are met.

Article 17. Duty of postal authorities and express consignment operator

1. Any officer of the postal service or employee of an express consignment operator who has knowledge of, or suspects, the arrival or importation of any plant, plant product or other regulated article into Timor-Leste, shall, in the absence of a phytosanitary inspector, immediately notify the arrival or importation to the NPPO.
2. The officer of the postal service shall detain the plant, plant product or other regulated article for inspection by a phytosanitary inspector and shall not release or dispose of the plant, plant product or other regulated article unless so authorised by a phytosanitary inspector.
3. A detention carried out under subsection (2) shall be deemed to be an action taken by or on delegation from the NPPO.
4. The NPPO shall take custody of any item detained under subsection (2) within three days of being notified of the detention.

Section IV - Documentation, requirements, measures and regulations issued by the NPPO

Article 18. Principles for the approval and implementation of phytosanitary measures

The phytosanitary measures approved by the NPPO shall be:

- (a) harmonized with the international standards;
- (b) based on risk analysis or risk assessment and science-based actions;
- (c) the least-trade restrictive option that achieves Timor-Leste appropriate level of plant health protection;

- (d) necessary to achieve Timor-Leste appropriate level of plant health protection; and
- (e) proportional to the risk to plant health.

Article 19. Revision and update of phytosanitary measures and regulations

1. The NPPO shall periodically review and recommend revisions to the Minister where required, any phytosanitary measures, requirements and regulations where new facts have become available, where there are changes to international standards and requirements, upon the basis of a pest risk analysis or where conditions change.
2. The NPPO shall publicize and disseminate proposed changes to this Decree-Law and any legislation issued under it through the Plant Health Committee and to the general public or by posting on Ministry of Agriculture websites and other means.
3. The NPPO shall provide at least sixty days for stakeholders to comment on proposed changes before approval of the proposed measure or legislation, except in emergency cases or for provisional measures.
4. The Minister shall cause any changes or modifications to phytosanitary measures and regulations to be published in the Jornal Republica and to be publicized widely by the NPPO.

Article 20. Dissemination and publication of phytosanitary regulations

1. At the request of an interested person, the NPPO shall provide free of charge, any information relating to this Decree-Law and any legislation issued under it, and shall establish contact points to answer enquiries pertaining to plant health legislation.
2. The NPPO shall widely publicise phytosanitary regulations, including forms and notices, and shall enable broad dissemination among stakeholders and among the general public, and shall share these regulations with trading partners and the IPPC as prescribed.
3. The NPPO shall ensure any phytosanitary regulations, including forms and notices, are made promptly and freely available via websites or other electronic or other media.

Article 21. Review and audit

The NPPO shall review and audit its services, and the effectiveness of measures under this Decree-Law. The NPPO shall monitor and evaluate the implementation of this Decree-Law and shall provide an annual report of the findings to the Minister.

Article 22. Manuals

The NPPO shall develop detailed guidance in Manuals and Standard Operating Procedures documents to prescribe the actions, measures and procedures to be taken by its officials in implementing this Decree-Law.

Article 23. Register and records

1. The NPPO shall establish a register of operators and shall keep records relating to imports and

exports as shall be prescribed.

2. For the purposes of this article, the NPPO may use and have access to the record systems established by other Government authorities and shall enter into arrangements for information sharing and collaboration with such Government authority.

Article 24. Confidentiality

Without prejudice to restrictions on disclosure under other laws of Timor-Leste, the NPPO may disclose confidential information to:

- (a) a court, where authorized or obligated to do so by a judge in connection with a legal proceeding;
- (b) the appropriate authority of the government of Timor-Leste for purposes of:
 - (i) the prevention, detection, investigation, prosecution, and punishment of offences;
 - (ii) the protection of the health and safety of members of the public;
 - (iii) the protection of plant health;
 - (iv) border security;
- (c) the appropriate authority of a foreign country pursuant to an international treaty or agreement; or
- (d) a border authority for purposes of carrying out the functions of that authority related to the processing of the import, export or transit of goods, subject to such procedures and conditions as NPPO shall agree with such border authority to ensure the security and protection of the information.

CHAPTER III - IMPORTS

Section I. Import requirements, restrictions and prohibitions

Article 25. Equivalence

The NPPO may negotiate bilateral and multilateral agreements for the evaluation, and where feasible, the acceptance of alternative phytosanitary measures proposed by an exporting country's NPPO as being equivalent to the phytosanitary measures required by the Timor-Leste NPPO under this Decree-Law.

Article 26. Import requirements

- 1. A plant, plant product or other regulated article may be imported into Timor-Leste only at a designated point of entry where covered by a phytosanitary certificate or where so indicated in the import permit.
- 2. A person shall import a plant, plant product or other regulated article into Timor-Leste only where he or she is in possession of:
 - (a) an import permit granted under this Decree-Law, where required;
 - (b) a phytosanitary certificate issued by the country of export, where required;

(c) any other documentation that may be prescribed by this Decree-Law or its regulations or any other commercial or customs legislation; and

(d) where all prescribed requirements are satisfied.

3. The NPPO may, where the circumstances necessitate, require that imported material be kept or cultivated at a plant quarantine station, or at any other location identified by the NPPO, and kept under the NPPO's supervision for such time as the NPPO considers necessary.

4. The Customs or other border authority shall notify the NPPO where it receives information that a shipment containing a plant, plant product or other regulated article has arrived or is due to arrive at a point of entry. The NPPO and Customs shall ensure an effective collaboration process for the purposes of this Decree-Law.

Article 27. Import restrictions and prohibitions

1. Any person who does not meet the requirements of this Decree-Law shall not import any plant, plant product or other regulated article.

2. Any import of a plant, plant product or other regulated article that does not comply with the phytosanitary requirements established by the NPPO shall be prohibited from entry into Timor-Leste.

3. The Minister may, upon the advice of the NPPO Authority and on the basis of risk analysis or risk assessment, prohibit or restrict the entry of any plant, plant products or other regulated article at any time where temporary measures are necessary, or declare a phytosanitary emergency or take any other necessary action to prevent the introduction or spread of a quarantine pest or a regulated non-quarantine pest.

4. The Minister shall publish in a Ministerial Diploma, upon the advice of the NPPO, a specific regime for the import of certain prescribed goods and a list of prohibited regulated articles.

Article 28. Special imports

Notwithstanding the article on prohibitions, the Minister may authorise, upon the recommendation of the NPPO, in the case of a natural disaster for humanitarian purposes, or for research, educational, experimental or other prescribed purposes, the import of any plant, plant product or other regulated article in prescribed quantities and subject to the prescribed conditions and safeguards as may be required.

Article 29. Imports of regulated articles containing non-regulated pests

Phytosanitary import requirements and phytosanitary measures for imports issued by the NPPO shall not apply to non-regulated pests.

Article 30. Propagating material

Any regulated article imported for propagation purposes shall be subject to post-entry quarantine.

Article 31. Import permit

1. Any person intending to import a plant, plant product or other regulated article shall require an import permit issued by the NPPO where so required by the NPPO. The NPPO shall prescribe the grounds for which an import permit is required.
2. Where an import permit is required under this article, an importer shall apply to the NPPO in the prescribed manner and together with the prescribed fee. In evaluating an application for an import permit, the NPPO shall apply existing international standards and conduct a pest risk analysis or risk assessment. The NPPO shall approve the application where it meets prescribed or deny the application where it fails to meet prescribed requirements, in either case, informing the applicant in writing of the decision. The NPPO may include whatever conditions in the import permit as may be required.
3. The NPPO may review, modify or revoke an import permit for a plant, plant product or other regulated article on the basis of grounds that shall be prescribed by regulation.

Article 32. Border inspection facility

1. The owner or operator of a border inspection facility at a designated entry point shall, where required in writing by the Minister, provide and maintain adequate areas, offices, and such facilities as may be prescribed by Ministerial Diploma, including buildings, furnishings and fixtures, to be used by the NPPO for inspection or for any other purpose related to the administration of this Decree-Law.
2. Where the owner or operator of a border inspection facility at a designated entry point fails to comply with a request made under this article, the Minister may cause the construction or repairs to be carried out and the owner or operator shall be liable for all reasonable costs incurred by the Minister.

Section II. Inspection of imports

Article 33. Requirement of inspection

1. Any plant, plant product or other regulated article imported into Timor-Leste, may be subject to inspection by a phytosanitary inspector, and where required samples may be taken from a consignment for the purposes of testing in accordance with prescribed sampling procedures and methodologies.
2. An importer shall provide the prescribed arrival notification to the NPPO of consignments of plants, plant products or other regulated articles.
3. All imports of regulated articles are under the phytosanitary detention of the NPPO until officially released by the NPPO.

Article 34. Place and time of import inspections

1. An import inspection shall be carried out by a phytosanitary inspector at the designated point of entry, at points of transshipment or at a quarantine station or other NPPO approved facility.
2. Notwithstanding subsection (1), an import inspection shall be carried out by a phytosanitary inspector at its final destination on application by an importer and the payment of the prescribed fee, and on the condition that the container has been sealed and marked as prescribed.
3. An import inspection shall be carried out during regular business hours, except where the plant, plant product or other regulated article is in transit or extremely perishable or where its entry has otherwise been delayed, in which case, on application by the importer and on payment of the prescribed fee, the NPPO may agree to an inspection being carried out at any other time.
4. The NPPO may establish bilateral or other agreements with trading partners to carry out pre-shipment inspections in the country of origin.

Section III. Phytosanitary actions on imports

Article 35. Non-compliance actions

1. Following an inspection, where a phytosanitary inspector determines that the imported plant, plant product or other regulated article is not accompanied by the prescribed documentation, or presents any risk for the introduction or spread of pests, the phytosanitary inspector shall detain the item and carry out or order any of the following actions:
 - (i) require the submission by the importer of the correct documentation within the prescribed time;
 - (ii) testing;
 - (iii) phytosanitary treatment in order to remove the risk;
 - (iv) transfer the regulated article to a quarantine station or other approved facility;
 - (v) sorting or re-configuring;
 - (vi) re-shipment to the country of export; or
 - (vii) destruction.
2. The methods and procedures for actions to be taken shall be detailed in implementing regulations.
3. Where, after its entry into Timor-Leste or after treatment, any imported plant, plant product or other regulated article remains unclaimed for a period of time as may be prescribed, the NPPO may take action to destroy the imported plant, plant product or other regulated article.

Article 36. Written notice for non-compliance actions

1. In accordance with article 35 of this Decree-Law, any non-compliance action taken by a phytosanitary inspector shall be preceded by the issuance of a written notice provided to the importer providing the justifications for the selected action.
2. Notwithstanding subsection (1), the phytosanitary inspector may forego advance notice and carry out any of the non-compliance actions where in his or her opinion destruction of the

imported plant, plant product or other regulated article is urgently required or the giving of notice is impracticable.

Article 37. Notification of non-compliance

The NPPO shall notify the exporting country of instances of interception, emergency actions and non-compliance where required.

Article 38. Costs for actions and liability

1. Where non-compliance action is taken, the method used to calculate costs charged shall be in accordance with the prescribed procedure and shall be made on the basis of cost recovery only.
2. The costs and responsibility for any action taken under this Part shall be borne by the importer.
3. The Government of Timor-Leste shall not be liable for the confiscation, destruction or disposal of any plant, plant product or other regulated article carried out in accordance with this Decree-Law.

Article 39. Release of imports

Where the phytosanitary inspector determines that the imported plant, plant product or other regulated article does not present any risk for the introduction and spread of pests, and otherwise complies with the requirements of this Decree-Law, he or she may release the consignment by written notice served on the importer.

Article 40. Vehicles

Any road, water or aircraft vehicle may be subject to such phytosanitary measures as may be prescribed by implementing regulations.

CHAPTER IV - QUARANTINE

Article 41. Plant quarantine stations and other facilities

1. The NPPO may designate certain premises as plant quarantine stations where a plant, plant product or other regulated article may be kept for phytosanitary observation, research, inspection, testing, treatment, detention or destruction.
2. The NPPO may designate certain places for the purpose of inspection and may approve facilities owned and operated by public or private third parties to be used for inspections under the supervision of NPPO.
3. Quarantine stations shall be established for both international trade-related quarantine as well as internal quarantine.

CHAPTER V - EXPORTS, RE-EXPORTS AND CONSIGNMENTS IN TRANSIT

Section I. Export and re-export

Article 42. Application for export

Where an importing country requires the issuance of a phytosanitary certificate, treatment or testing, an exporter shall apply to the NPPO for export certification of his or her regulated article for export. The exporter shall apply to the NPPO in the prescribed manner, including all prescribed documentation and shall pay the prescribed fee.

Article 43. Application for re-export

An exporter shall apply to the NPPO for re-export certification of his or her regulated article, when the regulated article is imported into Timor-Leste and then re-exported to a third country of destination, including where the consignment has been stored, split up, combined with other consignments or re-packaged, provided that the regulated article has not been exposed to infestation or contamination by pests. The exporter shall apply to the NPPO in the prescribed manner, including all prescribed documentation and shall pay the prescribed fee.

Article 44. Inspection of regulated article for export or re-export

The exporter shall make the consignment available for inspection and the NPPO shall upon receipt of an application for export, inspect the consignment without undue delay.

Article 45. Issuance of a phytosanitary certificate and phytosanitary certificate for re-export

1. All exports or re-exports shall be certified in accordance with the requirements of the importing country.
2. The NPPO shall have sole responsibility for the issuance of phytosanitary certificates and phytosanitary certificates for re-export.
3. Where the consignment meets the documentary and other phytosanitary import requirements of the recipient importing country and where the exporter satisfies any other requirements of applicable laws in Timor-Leste, a phytosanitary inspector shall issue a phytosanitary certificate or a phytosanitary certificate for re-export as the case requires, in the prescribed form which follows the IPPC model forms for export and re-export.
4. A phytosanitary inspector shall deny the issuance of a phytosanitary certificate or phytosanitary certificate for re-export where the consignment is infested or otherwise does not meet the documentary or other phytosanitary import requirements of the recipient importing country, or where the exporter fails to satisfy any other requirements of applicable laws in Timor-Leste.

5. For re-export consignments, all original documentation and phytosanitary certificates from the country of origin shall accompany consignments to be re-exported under the authority of the NPPO's re-export phytosanitary certificate.

6. Where a consignment intended for re-export has, in Timor-Leste, been exposed to infestation or contamination by a pest, or lost its phytosanitary security or integrity, or been processed to change its nature, the NPPO shall issue a phytosanitary certificate which indicates the country of origin and includes the original documentation or certified true copy of the original.

Article 46. Phytosanitary security of consignment

Where a phytosanitary certificate or phytosanitary certificate for re-export has been issued, the exporter shall export the consignment in compliance with instructions of the NPPO in order to maintain the phytosanitary security and physical integrity of the consignment.

Section II. Transit

Article 47. Application for consignment in transit

Any person wishing to transit a consignment of plants, plant products or other regulated articles through Timor-Leste shall apply to the NPPO in the prescribed manner together with the prescribed fee.

Article 48. Issuance of transit authorisation

The NPPO shall approve a transit application where it meets prescribed requirements or shall deny the application where it fails to meet prescribed requirements.

Article 49. Phytosanitary measures for consignments in transit

1. Phytosanitary measures shall not apply to a consignment in transit through Timor-Leste on the conditions that:

- (a) the consignment has been packed so as not to permit any risk of the spread of regulated pests that might be present in the consignment;
- (b) the consignment as well as the accompanying documents comply with the phytosanitary requirements of the country of destination; and
- (c) the consignment is accompanied by the phytosanitary certificate of the country of origin.

2. At the point of entry, the phytosanitary inspector may, inspect a plant, plant product or other regulated article in transit through Timor-Leste and may, upon the detection or suspicion of a regulated pest, and may, upon the approval of the CVO, refuse entry, detain or confiscate the regulated article and apply treatment, or destroy the consignment.

3. Vehicles carrying plants, plant products or other regulated articles stopping at a port or airport or passing through a port situated in the territory of Timor-Leste, on their way to another country, shall comply with the conditions prescribed by the NPPO.

4. Consignments in transit through the territory of Timor-Leste shall be taken from the point of entry by a route and within a time period specified by the NPPO to the point of exit from the country, at which point a phytosanitary inspector shall confirm that the consignment has left the country.

CHAPTER VI - CONTROL OF PESTS

Section I. Control and surveillance

Article 50. Phytosanitary control measures

1. Any plant, plant product or other regulated article, or any area or premises that is infested or suspected to be infested by a regulated pest or pest of national concern, as well as any pest free area, area of low pest prevalence, pest-free place of production or production site, or buffer zone may be subject to the phytosanitary control measures and actions listed in this article.
2. A phytosanitary inspector may, where required, carry out:
 - a) treatment, including the treatment of vehicles whether or not they have been found to be infested, in order to limit the spread of the quarantine pest, keep the area free from a specific pest or keep the level of a pest low, as the case may be;
 - b) disposal of plants, plant products or other regulated articles, including the treatment of vehicles whether or not they have been found to be infested, in order to limit the spread of the quarantine pest, keep the area free from a specific pest or keep the level of a pest low, as the case may be;
 - c) prohibition or restriction of the movement of any plant, plant product or other regulated article within, from or to the area, place, site or zone;
 - d) prohibition of planting or replanting specific plants in a specified location; or
 - e) any other phytosanitary action which the NPPO deems necessary.
3. The NPPO shall ensure collaboration with other Government units in the Ministry responsible for agriculture, regarding the contribution of phytosanitary measures, surveillance and diagnostics systems to integrated pest management) in an ecosystem approach to crop production and protection.

Article 51. List of regulated pests

1. The NPPO shall develop a list of regulated pests in Timor-Leste, and shall maintain and periodically review the list, and shall communicate and publish the list as prescribed to trading partners, or international organizations.
2. The NPPO shall categorise pests that are regulated pests, including quarantine and non-quarantine pests, based on risk analysis for inclusion on the list.
3. The NPPO shall identify pests of national concern, based on surveillance and the potential local economic impact of the pest.

Article 52. Duty to notify NPPO

1. The occupier or owner of any premises, who has knowledge of or suspects the presence of a regulated pest or a national pest of concern thereon, shall immediately notify the NPPO or the person in charge of the nearest police station or the person in charge of the nearest agricultural authority.
2. Where the person to whom notice under subsection (1) is not an official of the NPPO, such person shall immediately convey the information to the NPPO.
3. Public and private entities, researchers, universities, and other persons that identify the occurrence of a new pest or a regulated pest, shall report this occurrence as soon as possible to the NPPO.

Article 53. Surveillance

The NPPO shall gather data on pest biology, distribution, host range and potential for impact, and other information as may be prescribed through general and specific surveillance for listed pests in Timor-Leste.

Section II. Quarantine declarations

Article 54. Suspected presence of quarantine pest

1. Where a phytosanitary inspector believes that a quarantine pest may be present in any area or premises, he or she may enter such area or premises and inspect, take samples of, or carry out any prescribed provisional phytosanitary measure on any plant, plant product or regulated article suspected of harbouring a quarantine pest.
2. The phytosanitary inspector shall immediately inform the Chief Plant Protection Officer and shall ensure immediate submission of the sample to a laboratory for analysis.
3. The Chief Plant Protection Officer may place any restrictions or order the implementation of any phytosanitary measure, including emergency actions for a prescribed period as provisional measures, to prevent the possible spread of the pest pending confirmation.

Article 55. Declaration of quarantine

1. Where the NPPO confirms the presence of a quarantine pest in any area or premises, the Minister shall, upon the recommendation of the Chief Plant Protection Officer, make a declaration of quarantine.
2. The Minister shall declare a quarantine area by Ministerial Diploma in the Jornal Republica, upon recommendation of the Chief Plant Protection Officer.
3. A declaration of quarantine issued by the Minister under this article shall set out the geographical scope, the period of quarantine, the phytosanitary measures to be taken in order to

prevent the spread of the pest and the conditions for subsequent renewals of the declaration and shall set out such other particulars as may be prescribed.

4. The declaration of quarantine and the conditions that necessitate its maintenance shall be subject to regular review by the NPPO.

5. Written notice shall be provided by the NPPO to the owners of affected premises in the area under the declaration of quarantine.

Article 56. Procedures in response to quarantine pest

1. The NPPO shall establish the procedures to be followed by phytosanitary inspectors where a quarantine pest is suspected or confirmed and also procedures for actions to be taken in buffer zones.

2. Phytosanitary inspectors shall provide written notice of the quarantine area to the owner or occupier or premises where a quarantine pest has been detected or is suspected of being present, or premises in a buffer zone, and such written notice may specify:

- i. the limits of the quarantine area;
- ii. the actions that the owner or occupier must take in order to contain or eradicate the pest;
- iii. any restrictions, prohibitions or other measures to be applied in the quarantine area;
- iv. the duration of the quarantine period or the duration of the measures that must be taken;

3. The Chief Plant Protection Officer may, as the case requires:

- i. inform the NPPO of trading partners, neighbouring countries, the IPPC and any relevant international organizations where required;
- ii. review the issuance of any recent phytosanitary certificates from the quarantine area in light of the requirements of countries to which Timor-Leste exports; or
- iii. suspend export certification where required.

4. Where the owner or occupier of the premises does not comply with the written notice within the time specified in the notice, the Chief Plant Protection Officer may authorise a phytosanitary inspector to enter the premises and carry out the required action to limit the spread of the pest or to eradicate the pest.

5. The owner of the plant, plant product or other regulated article shall be liable to pay the costs for any action taken on his or her premises, except where the Minister, upon the advice of the Chief Plant Protection Officer, determines that the Government of Timor-Leste shall take responsibility for the associated costs and may pay compensation on such grounds as may be prescribed in article 89 of this Decree-Law.

Article 57. Revocation of quarantine

1. Where the NPPO determines that the quarantine pest is no longer present or that it is no longer appropriate for the quarantine status to be maintained in respect of part or all of the area or premises, the Chief Plant Protection Officer shall advise the Minister to revoke the declaration of quarantine.

2. The Minister shall revoke the declaration of quarantine by a Ministerial Diploma in the Jornal Republica, upon recommendation of the Chief Plant Protection Officer.
3. The NPPO shall provide written notice to all owners or occupiers of the area or premises of the revocation of the declaration of quarantine.

Article 58. Movement controls

1. The NPPO may prescribe restrictions or prohibitions on the movement of regulated articles during emergencies, or in quarantine areas, buffer zones or such other area, place or site as may be prescribed.
2. Any restrictions on movement shall be justified on the basis of a risk assessment and shall be subject to a specific time period.

Section III. Phytosanitary emergency

Article 59. Phytosanitary emergency response plan

The NPPO shall develop a phytosanitary emergency response plan, which shall identify the responsibilities of different units within the NPPO and in other Ministries, create contingency arrangements, identify required pest-specific contingency measures; and identify phytosanitary measures to be taken in response to the emergency. The emergency response plan shall be elaborated by the NPPO, subject to broad consultation including the participation of local authorities and community leaders, and shall be updated annually.

Article 60. Phytosanitary emergency declaration

1. Where there is a grave threat to plant resources or environment of Timor-Leste, or to food security or other prescribed ground, the Chief Plant Protection Officer may recommend to the Minister to declare a phytosanitary emergency.
2. The Minister shall make a declaration of a phytosanitary emergency, upon the recommendation of the Chief Plant Protection Officer, and shall publish the declaration by Ministerial Diploma in the Jornal Republica within twenty four hours.
3. The NPPO may activate the phytosanitary emergency response plan, and coordinate assistance and response from such other Ministries, departments and persons as may be identified in the phytosanitary emergency response plan. The Minister, upon the advice of the Chief Plant Protection Officer, may request and shall have the right to receive cooperation from the Ministries responsible for health, the environment, trade, disaster preparedness and response, law enforcement and other public authorities to respond to the phytosanitary emergency in accordance with the technical directions issued by the NPPO.

4. Any declaration made under this article shall be time-bound, be based on risk assessment and be proportionate and limited to the extent necessary to minimize the threat. The declaration shall be subject to periodic review and evaluation by the NPPO.

5. The NPPO shall ensure information regarding the phytosanitary emergency declaration and the phytosanitary measures and actions that shall be taken as a result, are widely published and disseminated to the general public, to stakeholders and to other Ministries.

Article 61. Revocation of phytosanitary emergency declaration

1. Where the NPPO determines that it is no longer appropriate for the phytosanitary emergency status to be maintained, the Chief Plant Protection Officer shall advise the Minister to revoke the declaration of quarantine.

2. The Minister shall revoke the declaration of quarantine by Ministerial Diploma in the Jornal Republica, upon recommendation of the Chief Plant Protection Officer, within three working days.

Article 62. Phytosanitary Emergency Response Operational Budget

1. A Phytosanitary Emergency Response Operational Budget shall be administered by the Minister comprising of:

- (a) funds allocated to the Ministry responsible for agriculture;
- (b) funds received upon request from other national emergency funds established in Timor-Leste;
- (c) any domestic or international donation made for the purposes of emergency response; and
- (d) any fees, charges or penalties collected under this Decree Law.

2. Upon the approval of the Minister, the resources of the Phytosanitary Emergency Response Operational Budget shall be made available to the NPPO upon declaration of a phytosanitary emergency under this Decree-Law, and shall be used exclusively for responses to a phytosanitary emergency.

3. The Minister shall ensure that the Phytosanitary Emergency Response Operational Budget is managed and administered in accordance with Timor-Leste legislation on the management of public funds.

Section IV. Pest-free areas, areas of low pest prevalence, pest-free production site, and pest-free place of production

Article 63. Declaration of pest free area

1. Where the NPPO is satisfied that a regulated pest is not present in an area, phytosanitary measures have been implemented to keep the area free of the pest and a surveillance system has been instituted to verify that the area, place or site remains free of the pest, the Chief Plant Protection Officer shall recommend to the Minister the declaration of a pest free area.

2. The Minister shall make a declaration of a pest-free area, upon the recommendation of the Chief Plant Protection Officer, and shall publish the declaration by Ministerial Diploma in the *Jornal Republica*.
3. Where the area loses its pest-free status, the Chief Plant Protection Officer shall advise the Minister to revoke the pest free area declaration.

Article 64. Declaration of area of low pest prevalence

1. Where the NPPO is satisfied that a regulated pest is present at low levels in the area, phytosanitary measures have been implemented to keep the area free of the pest and a surveillance system has been instituted to verify that the area has a low pest prevalence, the Chief Plant Protection Officer shall recommend to the Minister the declaration of an area of low pest prevalence.
2. The Minister shall make a declaration of an area of low pest prevalence, upon the recommendation of the Chief Plant Protection Officer, and shall publish the declaration by Ministerial Diploma in the *Jornal Republica*.
3. Where the area loses its pest-free status, the Chief Plant Protection Officer shall advise the Minister to revoke the declaration of an area of low pest prevalence.

Article 65. Pest free places of production and pest free production sites

Where the NPPO is satisfied that a regulated pest is not present in a place of production or production site, phytosanitary measures have been implemented to keep the place of production or production site free of the pest and a surveillance system has been instituted to verify that the place of production or production site remains free of the pest, the Chief Plant Protection Officer shall declare a pest free place of production or a pest free production site as the case may be.

CHAPTER VII - ENFORCEMENT

Section I. Phytosanitary inspector powers

Article 66. Conduct, rights and obligations of a phytosanitary inspector

1. A phytosanitary inspector shall carry out his or her duties with the prescribed standard of professional conduct and ethics.
2. In carrying out any duty under this Decree-Law, a phytosanitary inspector shall identify himself or herself as a phytosanitary inspector by showing his or her identification card or other proof of his or her appointment or designation as a phytosanitary inspector.
3. A phytosanitary inspector may conduct inquiries and request information or documentation upon suspicion that the provisions of this Decree-Law have been or are being violated.
4. In carrying out any duty under this Decree-Law, a phytosanitary inspector may request and shall have the right to receive, the assistance of such police and other law enforcement personnel as the Chief Plant Protection Officer considers necessary for the effective execution of the

phytosanitary inspector's functions. A phytosanitary inspector may be accompanied by a dog or may bring and use any thing to assist in the exercise of the power to inspect.

5. No person shall block or impede the work of a phytosanitary inspector, and any person who is subject to an inspection, or who owns or is in charge of an item that is subject to inspection, shall extend full assistance and cooperation to the phytosanitary inspector. A phytosanitary inspector may require an owner or person in charge of the regulated article or premises to give assistance or carry out instructions as may be reasonably necessary to facilitate the exercise of the phytosanitary inspector's functions or to implement the provisions of this Decree-Law.

6. A phytosanitary inspector may, when authorized by the Chief Plant Protection Officer, make announcements, issue a warning and provide information on phytosanitary matters.

7. A phytosanitary inspector shall carry out inspections promptly, without delay and in such manner as to facilitate the conduct of business and trade.

Article 67. Rights of persons during an inspection

1. Any person who is subject to an inspection or who is the owner or person in charge of the premises to be inspected shall have the right to accompany the phytosanitary inspector at all times during inspections of his or her premises.

2. Any owner or person in charge of an animal, animal product or other regulated article shall have the right to receive information regarding the reasons for the inspection.

Article 68. Written notice for phytosanitary measures

1. Any phytosanitary inspector who causes any plant, plant product or other regulated article to be seized, detained, treated, disposed of or destroyed in accordance with this Decree-Law shall immediately provide the owner or person in charge with a signed written notice in the prescribed form, which includes a description of the action taken, or to be taken, or a description of the activity to be prohibited and the reasons there for, and this form shall be countersigned immediately by the owner or person in charge. If the owner or person in charge is not present at a premises, the phytosanitary inspector shall affix in a conspicuous place, notification for the owner or person in charge, and shall, as soon as practicable, provide the owner with the written notice.

2. A phytosanitary inspector may forego advising the owner of the reason for the confiscation if in the circumstances it is impractical to give reasons for the confiscation, or where the situation requires emergency action, in which case written notice shall be provided to the owner or person in charge, after the action has been carried out.

3. A phytosanitary inspector may notify in writing, the owner of any area or premises, or of a regulated article, that he or she is required to implement one or more of the phytosanitary measures under this Decree-Law within a defined period of time.

4. If an owner fails to comply with any term of the written notice the phytosanitary inspector may enter upon the land or premises in question in order to carry out the requirements of the notice and, where circumstances so require, carry out any of the phytosanitary measures in order to eradicate, contain or restrict the spread of the pest.

5. A phytosanitary inspector shall lodge a copy of any written notice issued with the NPPO within seventy-two hours of issuing the written notice.

Section II – Enforcement actions

Article 69. Sampling, phytosanitary measures and phytosanitary actions

1. A phytosanitary inspector may carry out any prescribed phytosanitary measure or phytosanitary action in order to prevent the introduction or spread of pests.
2. A phytosanitary inspector may enter any area or premises in order to inspect plants, plant products and regulated articles under cultivation, in storage or in transport, or may inspect an consignments for import, transit or export, and may:
 - (i) inspect, examine and take samples of any plant, plant product or other regulated article or its package or container, and may send such samples to be tested at an official laboratory; or
 - (ii) carry out such phytosanitary measures and phytosanitary actions as shall be prescribed in inspectional manuals of the NPPO.
3. A phytosanitary inspector shall not enter a dwelling place without the consent of the owner under this Decree-Law unless he or she has a warrant signed by a judge.
4. A phytosanitary inspector may seize, destroy, carry out treatment on, dispose of, reship or confine in a quarantine station any regulated article.
5. An owner of a plant, plant product or other regulated article may request a second test of a sample taken under this Decree-Law and in such case, the phytosanitary inspector shall ensure the sampled or seized regulated articles remain under NPPO detention or are subject to such storage or quarantine as may be stipulated by the NPPO as necessary, until the second test results are available. The cost of the test and storage or quarantine shall be the responsibility of the owner of the plant, plant product or other regulated article sampled or seized.

Article 70. Documentary inspections

During an inspection, a phytosanitary inspector may take photographs, or demand any information regarding any regulated article from the owner or person in charge of such area or premises, including official documents, and may examine, make copies of or take extracts from any book, statement or other document found at such area or premises, and demand from the owner or any person in charge an explanation of any information contained therein.

Article 71. Seizure of objects and subsequent actions

1. A phytosanitary inspector may seize any regulated article, document or object that appears to provide proof of a contravention of any provision of this Decree-Law and shall immediately issue a written notice to the owner, which shall be countersigned by the owner. Where a phytosanitary inspector takes possession of a document under this subsection, he or she shall, at the request of the person otherwise entitled to the document, provide that person with a copy of the document certified by or on behalf of the notary public or other relevant authority under the

mark or stamp of notary public or other relevant authority as a true copy and every copy so certified is admissible in evidence in all courts as if it were the original.

2. The NPPO may store, treat, quarantine or dispose of the plant, plant product or other regulated article at the place where it was seized or move it to any other place for storage, treatment, quarantine or disposal, or require the owner or person in charge to take the specified action.

3. A plant, plant product or other regulated article, or other thing seized and detained under this Decree-Law shall not be detained after a determination by the NPPO that the plant, plant product or other regulated article, or other thing is in conformity with the provisions of this Decree-Law.

4. The NPPO may destroy and dispose of a seized plant, plant product or other regulated article, or require its owner or person in charge to dispose of it, where such regulated article has been infested or is suspected of being infested with a pest.

5. No person shall remove or interfere in any way with any regulated article or other thing seized and detained under this Decree-Law.

Article 72. Stop and search of vehicles and persons

1. A phytosanitary inspector may stop and search any person, where the phytosanitar inspector has reasonable grounds to believe an offence under this Decree-Law is being committed.

2. A phytosanitary inspector may stop and search any vehicle, on land or at sea, in which a plant, plant product or other regulated article is being or is suspected of being transported or stored.

3. Where a phytosanitary inspector is satisfied that there has been a failure on the part of the captain of any vehicle to comply with a requirement of this Decree-Law or with a condition imposed pursuant thereto, and this poses a plant health risk, he or she may:

(a) detain or stop the vehicle for a maximum period of four hours and shall immediately request confirmation of this measure from the Chief Plant Protection Officer, and where relevant, shall immediately inform the Customs authority;

(b) immediately provide a written and signed notice of detention justifying the particulars of the non-compliance to the captain of the vehicle.

4. Upon receipt of the communication by the phytosanitary inspector under this article, the Chief Plant Protection Officer shall, immediately order an investigation and shall continue such detention or stopping of the vehicle for a prescribed period for the taking of such phytosanitary measures as may be appropriate.

Article 73. Stopping distribution

1. Where a phytosanitary inspector considers it necessary to stop distribution for the purposes of preventing the spread of disease or otherwise in contravention of this Decree-Law, the phytosanitary inspector shall make a prescribed request to the CPPO, and the CPPO may issue a written notice suspending distribution, sale or use of any plant, plant product or other regulated article for a prescribed period.

2. Where required on phytosanitary grounds, the CPPO may request the Minister to prohibit permanently the distribution or sale of the plant, plant product or other regulated article, and upon the Minister's approval, the CPPO may issue a written notice to that effect to the owner or person in charge of the plant, plant product or other regulated article.

Article 74. Confiscation and disposal of unclaimed items

1. The NPPO may confiscate or dispose of any plant, plant product or other regulated article that, after its entry into Timor-Leste, remains unclaimed for a prescribed time. In such case, the NPPO shall notify in writing the owner or person in charge of the reason for its confiscation and disposal.

2. The NPPO shall claim the costs of actions taken under this article from the owner or person in charge of the unclaimed regulated article.

Section III. Offences and penalties

Article 75. Penalties for grave offences

1. The following constitutes an offence under this Decree-Law and is punishable by fine not exceeding ____ or imprisonment not exceeding ____ years, or to both a fine and imprisonment:

- (i) growing, selling, offering for sale, transporting or distributing in any manner any regulated article knowing that it is infested by a quarantine pest;
 - (ii) intentionally permitting, introducing or causing the introduction or spread of a quarantine pest;
 - (iii) distributing a regulated article that has been placed under bond, or following an administrative penalty or following an inspection that results in such regulated article being prohibited from distribution; and
 - (iv) assaulting, resisting, intimidating, threatening, abusing in any manner whatsoever, or obstructing a phytosanitary inspector exercising lawful powers under this Decree-Law.
2. All fines shall be paid in the national currency and within the prescribed period.

Article 76. Penalties for non-grave offences

1. The following constitutes a non-grave offence under this Decree-Law and is punishable by a fine not exceeding ____ or imprisonment not exceeding ____ years, or to both a fine and imprisonment:

- (i) failing to comply with any order or direction lawfully made or given under this Decree-Law;
- (ii) importing any plant, plant product or other regulated article contrary to any requirement that is prescribed;
- (iii) exporting any plant, plant product or other regulated article except as prescribed;
- (iv) failing to safeguard the phytosanitary security of a consignment for export after the issuance of a phytosanitary certificate;

- (v) failing to allow a search or inspection or the taking of any sample authorized under this Decree-Law;
- (vi) breaking the seal on a sealed container containing a plant, plant product or other regulated article except in the presence of a phytosanitary inspector, except where this is done by a customs officer in accordance with the provisions of the Customs legislation;
- (vii) knowingly or recklessly providing information which is false, for the purpose of obtaining any document under this Decree-Law;
- (viii) altering, forging, defacing or destroying any document issued under this Decree-Law; and
- (ix) otherwise contravening a provision of this Decree-Law.

2. All fines shall be paid in the national currency and within the prescribed period.

Article 77. Determination of penalties

1. A determination of appropriate penalties take into consideration the damage or threat of damage caused by the offence, the degree of intention or negligence with which it was committed, the economic situation of the offender, the estimated benefit that the offender has removed.

Article 78. Reoccurrence and doubling of penalty

Where a person commits an offence on two or more separate occasions, within a period of twelve months when already under adjudication or having received a penalty for the first offence, the prescribed fine for the second offence shall be doubled.

Article 79. Offences by public officials and penalties

1. A phytosanitary inspector, official analyst or other NPPO staff commits an offence if he or she:
- (i) directly or indirectly asks for or takes any personal payment or other reward in connection with any official duties;
 - (ii) agrees to do, abstains from doing, permits, conceals or connives at any act or thing which is contrary to the proper execution of official duties under this Decree-Law, or otherwise contrary to the laws of Timor-Leste;
 - (iii) discloses any information acquired in the performance of his or her official duties relating to any person, firm or business, except when required by his or her supervisor in the course of official duties, or where ordered to do so by any court; or
 - (iv) otherwise abuses his or her powers granted under this Decree-Law.
2. If found guilty under this article by a court of law, a phytosanitary inspector official analyst or other NPPO staff shall be liable to dismissal by the NPPO, shall cease to function in such capacity, may be ineligible for reappointment and shall be subject to such other penalty applicable to civil servants in Timor-Leste.

Section IV. Administrative penalties

Article 80. Suspension and revocation of licenses, permits and other authorisations

1. The NPPO may suspend or revoke any permit or other authorization issued under this Decree-Law and may issue an administrative penalty either exclusively or in addition to any other penalty stipulated under this Decree-Law.
2. In cases of serious or repeated violations, including reoccurrence as prescribed in article 78 of this Decree-Law, the NPPO may recommend the revocation of the business license and a shutting down of the business, to SERVE or other authority that issued the business license or any other license to operate.
3. Upon receipt of such recommendation, the authority issuing the business license or other license to operate, shall revoke the license within three days.
4. Administrative penalties shall be instituted within six months of the violation.

Article 81. Fixed penalty notice for prescribed minor offences

1. This article applies to any offence as may be prescribed as a fixed penalty minor offence and where the maximum penalty, excluding any additional fines if the offence is a continuing one, is a fine that does not exceed _____.
2. A phytosanitary inspector may issue on the spot a fixed penalty notice to the offender which indicates that the offender shall either appear before the adjudicating body in accordance with normal procedures following written summons, or shall have the option to pay a fixed penalty fine instead at the prescribed authority.
3. Where the offender pays at the prescribed authority, within the prescribed time, no proceedings shall be instituted for that offence and he or she shall be treated for all purposes in law as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence in respect of which payment was made.
4. Where the offender does not pay the fine within the prescribed time, the Chief Plant Protection Officer shall decide whether to allow the offender an additional grace period to pay the fine, or to increase the fine to be paid through written notice, specifying a new time period for payment or to take any other action as established under this Decree-Law.
5. The particulars to be set out in a fixed penalty notice and the form to be used shall be set out in regulations.

Section V. Procedure for offences

Article 82. Decision on penalty for offence

Where a phytosanitary inspector reasonably believes that a person has contravened any of the provisions of this Decree-Law, he shall provide such information to the Chief Plant Protection Officer. The Chief Plant Protection Officer shall determine:

- (a) whether the matter warrants application of a criminal penalty and in such case, shall forward the case to the relevant authority for criminal prosecution;

- (b) whether an administrative penalty shall be applied; or
- (c) whether both such administrative and criminal penalties apply .

Article 83. Forfeiture

1. Where a person is convicted of an offence under this Decree-Law the adjudicating body may, in addition to any other penalty imposed, order that any item used in the perpetration of the offence be forfeited to the Government.
2. Where the court does not order the forfeiture of a regulated article, that regulated article or any proceeds realized from its disposition shall be returned to the owner or person in charge at the time of its seizure, except if such return poses a phytosanitary risk in which case the regulated article shall be destroyed.
3. The NPPO shall determine the appropriate holding of regulated article seized or forfeited under this Decree-Law prior to its disposition by the adjudicating body, at the cost of the owner of the regulated article. The NPPO shall ensure that any decision under this article does not create a risk of the entry or spread of pests and where such risk exists shall apply article 71 of this Decree-Law.
4. Any item forfeited following the conviction of the offender, shall if no appeal is lodged or upon the expiry of such appeal, be destroyed, sold, leased or donated to a charitable organization.
5. The proceeds of any sale of any item forfeited in accordance with this section shall be deposited with the authority.

Article 84. No liability for NPPO actions and good faith defense

1. The Government shall bear no liability for loss resulting from the destruction or disposal of any plant, plant product or other regulated article carried out in accordance with this Decree-Law.
2. No member of the NPPO, official analyst or official or employee of a reference laboratory or any government entity shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of official functions under this Decree-Law.

CHAPTER VIII - FINAL PROVISIONS

Article 85. Duty to declare

1. Any person arriving in Timor-Leste and bringing in any plant, plant product or other regulated article shall make a declaration upon arrival in Timor-Leste, to a Customs or NPPO official. Where the declaration is made to a Customs official, he or she shall convey the information to the NPPO in the prescribed manner.

2. Any inbound commercial flight, ship or other forms of travel into Timor-Leste shall, prior to the arrival at a point of entry, inform the passengers and crew of their duty to declare any plant, plant product, or other regulated article upon arrival.

Article 86. Designated points of entry and exit

1. The Minister shall, upon the advice of the Chief Plant Protection Officer, designate through Ministerial Diploma published in the Jornal Republica, the points of entry and exit for plants, plant products and other regulated articles that require a phytosanitary certificate or for which inspections or treatment are required, from the list of existing entry and exit points established by the Customs authority.

2. Designated points of entry and exit shall be equipped with prescribed facilities and equipment.

3. The NPPO shall display phytosanitary import requirements at designated points of entry.

Article 87. Emergency landing

1. Where for reasons beyond the control of its captain, a vehicle calls or lands somewhere other than at a designated point of entry, or is forced to land or port in Timor-Leste though not having intended to do so owing to an emergency, the captain of the vehicle shall immediately notify the nearest NPPO or other port authority.

2. No plants, plant products or other regulated articles shall be permitted to leave the vicinity of the docking or landing place until the measures prescribed by the NPPO have been carried out.

3. Where the NPPO considers that the risk has been lowered to an acceptable level, the NPPO may authorise the vehicle to proceed to the point of entry at which it was originally scheduled to call or land, or an alternative point of entry.

4. The captain of the vehicle shall take all necessary measures to maintain the health and safety of the passengers, crew, attendants and animals on board.

Article 88. Costs of phytosanitary actions

1. The owner of a regulated article, consignment or premises shall be liable to pay the costs for any action taken on his or her regulated article, consignment or premises, except where the NPPO determines that the Government of Timor-Leste shall take responsibility for the associated costs on such grounds as may be prescribed.

2. The costs for phytosanitary actions under this Decree-Law and the method used to calculate the costs shall be as prescribed by regulation.

Article 89. Compensation

1. The Minister or a court, may, on the recommendation of the NPPO, order compensation to be paid in respect of the following cases:

(a) within quarantine areas or buffer zones, or during emergency declarations, or where treatment is required on premises or where there is a prohibition or restriction on the use of premises, or where the owners of the premises or regulated articles are affected by pest eradication measures; or

(b) where the economic circumstances and livelihood of the person affected require the Government to compensate the owner of the premises or regulated articles affected by phytosanitary actions taken under this Decree-Law.

2. Compensation shall not payable to a person who commits an offence under this Decree-Law and claims compensation in respect of any premises or thing by means of or in relation to which the offence was committed.

3. Schedules and rates of compensation shall be established in a Ministerial Diploma.

Article 90. Dispute settlement with trading partners

The NPPO shall establish procedures for consultation and exchange of information with other NPPOs and for swift bilateral consultations to settle disputes, without prejudice to the right to seek international mechanisms for dispute resolution under the IPPC.

Article 91. Charging of fees

1. Subject to any general law governing cost recovery or user fees, the NPPO shall charge fees for inspections, sampling and analysis, treatment and the issuance of permits and other NPPO services as specified by this Decree-Law, and such fees shall be based on a recovery of the actual costs only.

2. The Minister shall by Ministerial Diploma published in the Jornal Republica, establish the fees chargeable under this Decree-Law.

Article 92. Documents and declarations

1. A document or declaration required to be furnished under this Decree-Law or any regulation or order made thereunder may be furnished in electronic form as shall be prescribed, in accordance with legislation governing electronic transactions.

2. The NPPO shall establish requirements relating to creating, receiving, storing, sharing and sending phytosanitary certificates in electronic form.

Article 93. Right to administrative appeal

1. Any person aggrieved by an action or decision of a phytosanitary inspector or an official analyst under this Decree-Law may, within the prescribed time and in the prescribed manner, appeal to the Chief Plant Protection Officer.

2. Where the person, following a decision of the Chief Plant Protection Officer, remains unsatisfied with the outcome, he or she may, within the prescribed time and in the prescribed manner appeal to the Minister. The Minister shall issue his or her decision within the prescribed

time. The decision of the Minister is final on technical matters but shall not prejudice the right of any aggrieved party to seek recourse to the relevant adjudicatory body on matters of law.

3. Such right to an administrative appeal does not preclude the right of the NPPO to take urgent phytosanitary action as the situation requires.

Article 94. Regulations

The Minister shall make, amend or revoke regulations which he or she considers appropriate to give effect to the provisions of this Decree-Law, upon the advice of the Chief Plant Protection Officer and the NPPO. Any regulations issued under this Decree-Law by the Minister shall be published in the Jornal Republica where appropriate, on the NPPO website and disseminated through prescribed means.

Article 95. Repeal and Savings

1. The Decree-Law No. 21/2003 regulating sanitary control on imported and exported goods and the Government Decree No. 1/2006 on General Quarantine are hereby repealed together with any previous subsidiary legislation that contradicts this Decree-Law.

2. Until replaced by new regulations made under this Decree Law, all existing consistent regulations in effect on the coming into force of this Decree-Law shall continue in force as if they were issued under the present Decree-Law, except to the extent that they may have provisions that conflict with this Decree-Law and such conflicting provisions shall be null and void.

Article 96. Entry into force

The present Decree-Law enters into force six months after its publication.

Approved by the Council of Ministers on the ____ of ____ of 2017.

The Prime Minister

The Minister of Agriculture, Forestry and Fisheries

Promulgated on ____, 2017.

To be published

The President of the Republic