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NATIONAL AFFAIRS

Timor-Leste

Developing Environmental Law for All Citizens

by Patricia Moore,* Eliana Silva Pereira** and Gillian Duggin***

On 20 May 2002, Timor-Leste became a country.¹ Its Constitution, which came into force on 20 May 2002, is based on civil law, with many similarities to Portugal's legal system. The Constitution also laid the foundation for environmental law, which the government has been developing ever since. This overview of the development of environmental law in Timor-Leste describes the constitutional provisions that are the source of environmental law in the country; presents the policy basis for environmental law; reviews the legal instruments governing the environment that the government has adopted since 2002; introduces draft laws under consideration at the end of 2014; and highlights the initiative of the Ministry of Justice's Legal Training Center to teach national environmental law to the legal professionals who will be the country's future judges, prosecutors and public defenders. It begins with a brief summary of the history and geography of the country.

Brief History and Geography²

Timor-Leste, with a land area of approximately 15,000 km², is the eastern part of the island of Timor in Southeast Asia. The western part, West Timor, is a province of Indonesia. The territory that comprises Timor-Leste corresponds very roughly with the area ruled by a Tétum military aristocracy at the time the Portuguese colonised the island in the 1500s.³ As the Portuguese ruled from the 16th century until 1975, they gradually introduced Catholicism in eastern Timor, although animism has persisted.⁴

In 1975, when Portugal decolonised, the Revolutionary Front for an Independent East Timor (FRETILIN) proclaimed independence. The proclamation sparked a civil war between those who wanted independence and those who wanted special autonomy under the Indonesian government. In response, Indonesia invaded, declared East Timor to be its 27th province, and occupied East Timor

for 24 years. During the period 1975–1999, the years of East Timorese resistance, a quarter of a million Timorese lost their lives.⁵

The 1996 Nobel Peace Prize, awarded to José Ramos Horta and Carlos Felipe Ximenes Belo for their work to find a just and peaceful solution to the conflict in East Timor,⁶ focused international attention on East Timor's struggle for independence. After Suharto resigned as President of Indonesia in 1998, his successor B.J. Habibie agreed to hold a referendum on the question of autonomy or independence for East Timor. The Security Council authorised a political mission, the United Nations Mission in East Timor (UNAMET), to oversee and facilitate that process. When more than 75 percent of the voters in the 30 August 1999 referendum voted for independence, pro-Indonesia militias rampaged. On 18 September 1999, the UN sent a military intervention force. During the period October 1999–May 2002, the United Nations Transitional Administration in East Timor (UNTAET), a peacekeeping operation, exercised administrative authority while the Constituent Assembly drafted Timor-Leste's Constitution. On 22 March 2002, the Constitution⁷ came into force and, on 20 May 2002, Timor-Leste's independence was restored.⁸

A subsequent UN peacekeeping mission was followed by a second UN political mission during 2002–2006. In 2006, after internal conflict flared, the UN Security Council established the United Nations Integrated Mission in Timor-Leste (UNMIT), a combined political and policing mission, whose mandate included support to consolidate stability, promote democratic governance, and facilitate political dialogue.⁹ UNMIT's mission and presence in the country ended on 31 December 2012.¹⁰

Timor-Leste today has a young, mostly rural population of more than 1.1 million.¹¹ Tétum is the *lingua franca* of the multilingual population of Timor-Leste and, along with Portuguese, one of the two official languages of the country.¹² The 2010 census found that 58 percent of the population is literate in Tétum and 26 percent is literate in Portuguese.¹³

The UN categorises Timor-Leste as a small island developing State and a least developed country.¹⁴ Although less than 10 percent of the country's land is arable, more than 60 percent of the population works in agriculture and fishing,¹⁵ in most cases at subsistence level. Nevertheless, Timor-Leste is estimated to have the second highest budget surplus in the world,¹⁶ due to significant income from oil and gas production. Most of the oil and gas revenue is

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All three co-authors were directly involved in developing Timor-Leste's Basic Environment Law, the Environmental Licensing Decree-Law, the draft Biodiversity Decree-Law, and the draft Protected Areas Decree-Law.

deposited in the Petroleum Fund, which was created by law in 2005¹⁷ to ensure transparent use of the income.

After more than two decades of armed conflict, the country's natural resources are seriously degraded and there is a general lack of information about them. Verifiable data on forest cover is minimal, but available indicators point to the fact that natural forest area has diminished overall, that the area classed as "poor" has increased, and that plantations have also increased. Most of the population cooks with fuel wood. Most of the rivers in the country are seasonal. Flash floods are common and soil loss due to erosion is substantial, as is the impact of sediment on coral reefs. Dili and other urban areas discharge untreated waste directly into the sea. Despite all the challenges, Timor-Leste is on track to achieve at least one of the four targets of Millennium Development Goal 7 on ensuring environmental sustainability, which is, by 2015, to reduce by half the proportion of its population without sustainable access to safe drinking water and basic sanitation.¹⁸

The Constitution

Timor-Leste's 2002 Constitution¹⁹ gives the National Parliament discretion to allocate to the executive branch of the government responsibility for legislating on specified matters, including the environment. The Constitution lists 17 matters for which the National Parliament has exclusive authority to legislate.²⁰ For another 12 matters, among them the environment and sustainable development, the Constitution specifies that the National Parliament may authorise the executive branch of the government to legislate.²¹ The National Parliament adopts such legislative authorisations as laws that are published in the *Jornal da República*, the official government gazette.²²

The Constitution enshrines several of the principles of the 1972 Stockholm Declaration.²³ It establishes that one of the fundamental objectives of the State is to protect the environment and preserve natural resources. Actions taken to achieve this objective must take into account the other fundamental constitutional objectives, which include: guaranteeing citizens' fundamental rights and liberties; guaranteeing public participation in resolving national problems; guaranteeing integrated economic development; promoting social justice, and material and spiritual wellbeing; and equitable distribution of the benefits accruing from what the country produces.²⁴

Timor-Leste's Constitution guarantees the right to a healthy and ecologically balanced natural environment, and enshrines the principle of inter-generational equity.²⁵ The Constitution stipulates that the State must recognise the necessity to preserve and value natural resources, must defend them, and must promote sustainable economic development.²⁶ The Constitution also requires that exploitation of surface, subsoil and marine natural resources must maintain ecological balance, avoid the destruction of ecosystems, and ensure that use of natural resources is just and equitable.²⁷

Environmental Strategies and Plans

The government's Strategic Development Plan 2011–2030 sets out the country's vision for the medium-term

future and is part of the basis for environmental law in the country. Environmental sustainability is one of 21 goals that the Strategic Development Plan sets for Timor-Leste: *By 2030, the strong bond between Timorese people and the environment will be restored and our natural resources and our environment will be managed sustainably for the benefit of all.*²⁸

According to the Strategic Development Plan, the first steps will be to ensure that existing environmental laws and regulations are enforced and to prepare the comprehensive environmental protection and conservation legislation necessary to meet the country's constitutional and international obligations.²⁹ The Strategic Development Plan and the National Biodiversity Strategy and Action Plan of Timor-Leste (2011–2020) establish common law-related targets for 2015:

- an Environmental Basic Law will be the legal framework to protect and conserve the environment;
- a National Biodiversity Law and a Wildlife Conservation Law will protect and conserve biodiversity in Timor-Leste;
- air, noise and soil pollution regulations will be in place; and
- vehicle emissions regulations will be in place.³⁰

Timor-Leste achieved the first of these targets in 2012 when it adopted the Basic Environment Law (see below).³¹

The Strategic Development Plan specifies two additional targets for 2015:

- an Environmental Impact Law to ensure environmental approval, monitoring and auditing of proposed activities;³² and
- a Designated National Authority for the Mechanisms of the Kyoto Protocol and a National Climate Change Centre will be operational.³³

Timor-Leste achieved both of these targets by 2014. The government adopted a Decree-Law on Environmental Licensing in February 2011,³⁴ created the Designated National Authority for the Clean Development Mechanism under the Kyoto Protocol in 2012,³⁵ and launched the National Centre for Climate Change and Biodiversity at the National University of Timor-Leste (UNTL) in May 2014.³⁶

Other law-related strategic actions that the Strategic Development Plan prioritises include:

- introducing special forestry legislation backed by improved land-tenure arrangements;³⁷
- enforcing environmental laws and forest laws to control forest-degrading activities;³⁸ and
- developing specific regulations to implement climate-change-related agreements and to control ozone-depleting substances.³⁹

Timor-Leste achieved the third of these targets in 2012 when it issued regulations on the import and export of ozone-depleting substances.⁴⁰ The Council of Ministers⁴¹ was considering a draft forestry law at the end of 2014 (see below).

The Environment in National Law

Following the 1999 referendum on independence, East Timor continued, on an interim basis, to apply Indonesian laws that had been in force since 1975. Those laws included Indonesia's 1997 Environmental Management Act, which required environmental licensing on the basis of prior environmental impact assessment (EIA), established the government's obligations and citizens' responsibilities for environmental management, and provided for administrative remedies, dispute resolution, and criminal penalties. This law was almost impossible to implement because the institutional arrangements were specific to Indonesia and different from those Timor-Leste had put in place. Indonesia repealed and replaced this law in 2009 but it remained in force in Timor-Leste until 2011.

From 1999 to 2002, the UNTAET issued almost 200 regulations, directives, executive orders and notifications. Among them were Regulation N° 2000/17 on the Prohibition of Logging Operations and the Export of Wood from East Timor⁴² and Regulation N° 2000/19 on Protected Places.⁴³ Regulation N° 2000/19 provides general protection for coral reefs, wetlands and mangroves, creates 15 protected areas, and provides for protecting endangered species and their habitats. Since the restoration of independence in 2002, Timor-Leste has been gradually creating its own regulatory system, and replacing Indonesian and UNTAET legal instruments (see Table 1 for a chronology of environmental law in Timor-Leste).

Timor-Leste has acceded to seven multilateral environmental agreements (MEAs): United Nations Convention to Combat Desertification (in 2003); United Nations Framework Convention on Climate Change (in 2006) and the Kyoto Protocol (in 2008); Convention on Biological Diversity (in 2007); Vienna Convention and Montreal Protocol on protection of the ozone layer (in 2009); and the United Nations Convention on the Law of the Sea (in 2013). The Constitution stipulates that the provisions of international agreements have direct effect in Timor-Leste's national law.⁴⁴ Nevertheless, the government has made continuous efforts to implement its international obligations in national laws and regulations (see Table 1).

Fisheries

The fisheries sector adopted the earliest laws and regulations governing natural resources and the environment. Several of the laws, decree-laws and ministerial diplomas that have governed the fisheries sector since 2004 have provisions related to protection of marine and aquatic environments, and to sustainable use of fisheries resources. The Strategic Development Plan noted in 2011 that the fisheries sector was well-regulated, but that enforcement continued to be a challenge.⁴⁵

The general fisheries law⁴⁶ and its implementing regulation⁴⁷ stipulate that commercial exploitation of fisheries must be based on the precautionary principle and be sustainable. It limits commercial fishing to fishing

Table 1. Chronology of environmental law in Timor-Leste

Date	Legislation
2002	Constitution
2004	Fisheries Crimes, Law N° 12/2004
	General Basis for the Legal Regime on Fisheries Management and Planning, Decree-Law N° 6/2004
	General Fisheries Regulation, Government Decree N° 5/2004
2005	Definition of Fishery Zones, Ministry of Agriculture and Fisheries Ministerial Diploma N° 01/03/GM/I/2005
	Principal Commercial Fisheries Resources, Ministry of Agriculture and Fisheries Ministerial Diploma N° 02/04/GM/I/2005
	Allowable By-catch Percentages, Ministry of Agriculture and Fisheries Ministerial Diploma N° 03/05/GM/I/2005
	Lists of Protected Aquatic Species, Ministry of Agriculture and Fisheries Ministerial Diploma N° 04/115/GM/IV/2005
	Sizes and Minimum Weights of Species that May Be Fished, Ministry of Agriculture and Fisheries Ministerial Diploma N° 05/116/GIWT/2005
	Fines for Fisheries Violations, Ministry of Agriculture and Fisheries Ministerial Diploma N° 06/42/GM/II/2005
2007	Creation of Nino Konis Santana National Park, Government Resolution N° 8/2007
2009	Criminal Code, provisions on environmental crimes, Government Decree N° 19/2009
2010	Admission to Protected Areas and the National Park, Ministry of Agriculture and Fisheries Ministerial Diploma N° 429/10/DM/XI/10
	Undertaking Nature Tourism Projects in Protected Areas and the National Park, Ministry of Agriculture and Fisheries Ministerial Diploma N° 430/11/DM/XI/10
2011	Environmental Licensing (EIA), Decree-Law N° 5/2011
2012	Basic Environment Law, Decree-Law N° 26/2012
	Control of Imports and Exports of Substances that Deplete the Ozone Layer, Decree-Law N° 36/2012

practices that do not cause harm to marine and aquatic ecosystems.⁴⁸ Fisheries management plans must be based on a prior assessment of aquatic biological resources and the potential impact that fishing would have on them.⁴⁹ Non-commercial as well as commercial fishing must comply with laws and regulations that require conservation and sustainable use of resources.⁵⁰ Commercial fishing and seaweed harvesting require a permit.⁵¹ The government may refuse to issue a permit if the activity would result in damage to the marine environment, aquatic ecosystems, or species preservation.⁵² Even non-commercial fishing may be temporarily prohibited to protect species and the marine environment.⁵³

The fisheries regime prohibits discharging any toxic substances or objects into freshwater bodies and the sea. It also prohibits discharging any waste water that may have a negative impact on fisheries resources. Any project that would discharge waste water from any source into the sea or into freshwater bodies requires the approval of the Minister.⁵⁴ A proposed project for marine or freshwater aquaculture requires prior approval from the Minister responsible for the environment (but not a formal EIA)⁵⁵ before the Fisheries Department will issue a permit.⁵⁶ The fisheries regime applies the “polluter pays” principle and establishes strict liability for damage to aquatic ecosystems.⁵⁷

Timor-Leste’s fisheries regime provides for establishing three categories of marine protected areas: national marine parks where all fishing is prohibited; marine restocking zones; and natural aquatic reserves where fish stocks can recover.⁵⁸ It also lists protected aquatic species.⁵⁹ Ministerial diplomas provide for defining fishing zones⁶⁰ and list principal commercial species,⁶¹ the weights and sizes that may be fished,⁶² and the percentages of allowable by-catch.⁶³ The diploma that defines fishing zones does so only on the basis of distance from the coast. It does not provide for the relationship between fishing zones, marine restocking zones and national marine parks where all fishing is prohibited.

In 2004, the government adopted a special law on fisheries crimes.⁶⁴ This law made the following environment-related activities subject to criminal penalties: fishing with explosives or toxic substances;⁶⁵ destroying corals or removing them from the wild; unlicensed fishing in protected zones; and fishing protected species.⁶⁶ The Criminal Code⁶⁷ (see below), which was adopted in 2009, repealed the Law on Fisheries Crimes and stipulates weaker penalties for crimes related to fisheries.⁶⁸ Under the Law on Fisheries Crimes, penalties were a prison sentence and a fine. Under the Criminal Code, penalties are a prison sentence or a fine. A Ministerial Diploma stipulates minimum and maximum fines for fisheries violations and specifies that the amount of a fine must take into account the extent of damages caused to marine and aquatic ecosystems.⁶⁹

The Ministry of Agriculture and Fisheries has not amended the 2005 Ministerial Diploma that lists protected species to make it consistent with the 2009 Criminal Code. The Ministerial Diploma that lists protected species does not specify whether the species it lists are threatened or

endangered.⁷⁰ The Criminal Code stipulates penalties for fishing threatened and endangered species, but does not specify penalties for fishing protected species.

The Criminal Code

Timor-Leste adopted its Criminal Code in 2009.⁷¹ One section of the Code is dedicated to environmental crimes.⁷² In addition to illegal fishing (see above), the Criminal Code makes the following activities subject to criminal penalties: crimes involving pollution and aggravating factors in such crimes; crimes against threatened or endangered species of flora and fauna; and prohibited burning. All penalties the Criminal Code stipulates are for prison or a fine; there is no option to sentence a violator to prison and also require that violator to pay a fine.

Under the Criminal Code, anyone who introduces emissions, effluents, radiation, noise or vibrations into the atmosphere, soil, subsoil, ground water, freshwater bodies, or the sea, including in transboundary areas, in any way that is not in compliance with environmental protection regulations, can be fined or sentenced to up to three years in prison. Anyone who extracts or excavates and does not comply with environmental protection regulations is subject to the same penalty.⁷³

Anyone who intentionally releases ionising radiation or other substances into the air, soil, freshwater bodies, or the sea, at a level that can cause harm to human beings which requires medical treatment, can be sentenced to 2–8 years in prison. If the release causes death, the sentence is 5–15 years in prison.⁷⁴ When an industrial or commercial entity intentionally releases pollutants and is also operating without a licence, is in non-compliance with specified administrative requirements, or causes irreversible or catastrophic environmental degradation, the minimum and maximum penalties increase by one-third. Proprietors and board members of a polluting industrial or commercial entity may also be criminally liable if they authorised the illegal activity.⁷⁵ This is the only provision on environmental crimes in the Criminal Code that stipulates a minimum penalty as well as a maximum penalty.

The penalty for cutting, uprooting, collecting, burning, illegally trafficking, or destroying or gravely altering the natural habitat of any species of threatened or endangered flora is a fine or up to three years in prison. Anyone who introduces or facilitates the introduction of alien species that disrupt native ecosystems is subject to the same penalty.⁷⁶

Anyone who hunts or fishes any threatened species of fauna, or interferes with its reproduction, development or migration, or trades any part of it, is subject to a fine or up to three years in prison. If the crime is committed in a legally designated protected area or involves an endangered species, the penalty is a fine or up to five years in prison.⁷⁷

UNTAET Regulation No. 2000/19 stipulates endangered species⁷⁸ but does not list threatened species. A fisheries sector regulation lists protected aquatic species (see above). As of 2014, Timor-Leste had not yet adopted a legal instrument that lists protected, threatened or endangered

terrestrial species and the country is not a Party to the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), so UNTAET Regulation No. 2000/19 continues to apply to terrestrial species.

The Criminal Code also stipulates criminal penalties for burning. Anyone without a permit who starts a fire that destroys forests, plantations or agricultural land is subject to up to two years in prison or a fine. If the fire is legally permitted but the person who starts it is negligent, the penalty is a fine or up to one year in prison.⁷⁹ If the fire affects threatened or endangered plant species, the penalty is a fine or up to three years in prison.⁸⁰

Protected Areas

In 2007, Timor-Leste declared its first national park, Nino Konis Santana National Park.⁸¹ The park combined three areas that were already protected under UNTAET Regulation No. 2000/19. In 2010, the Ministry of Agriculture and Fisheries issued two Ministerial Diplomas governing activities in the national park and other protected areas.

One diploma requires a permit for specified activities, including expeditions, research and development, science and education, commercial photography, making documentaries and commercial films, and film promotion.⁸² The other diploma regulates nature tourism.⁸³

As of 2014, the Council of Ministers was considering a draft Decree-Law on Protected Areas (see below). Until that Decree-Law is adopted, UNTAET Regulation No. 2000/19 on Protected Places remains in force with respect to protected areas.

Environmental Licensing/EIA

Timor-Leste's 2012 National Report to the United Nations Conference on Sustainable Development (UNCSD) described the status of EIA in the country.

Although the EIA process provides the grounding for mitigating negative environmental and social impacts of implementation of a development proposal, it is not yet well understood in Timor-Leste and, as a result, is not adequately applied. Most infrastructure projects are undertaken without conducting or taking into consideration the findings of an EIA.⁸⁴

In February 2011, exactly one year before the 2012 report to the UNCSD, the Government adopted a Decree-Law on Environmental Licensing that established the requirement for EIA.⁸⁵ The National Environment Directorate, in April 2014, issued a notification explaining the basic requirements and procedures for EIA and environmental licensing that the Decree-Law establishes.⁸⁶

The Decree-Law creates three categories of projects – those that require a comprehensive EIA (Category A); those that require a simplified EIA (Category B); and those that do not require EIA (Category C)⁸⁷ – and specifies the responsibilities of the regulatory authority and proponents of projects in each category. For every proposed project in Category A, the National Environment Directorate in the Ministry of Commerce, Industry and Environment⁸⁸ must create an Evaluation Commission to review the EIA.⁸⁹ The Evaluation Commission must convene a

public consultation at the scoping stage within a specified period of time.⁹⁰ The proponent of a Category A project is required to conclude an Agreement on Impacts and Benefits (AIB) with each community located in the vicinity of the proposed project. An AIB must specify the rights and obligations of the proponent and the community, and protect traditional customs and land uses.⁹¹ The Decree-Law creates an inconsistency with respect to AIB, however. In one clause, it specifies that an AIB is to be negotiated after an EIA is approved while the subsequent clause specifies that the negotiation for an AIB is to be on the basis of the proposal.

The Decree-Law specifies the procedures for reviewing an EIA,⁹² licensing a project once an EIA is approved and attaching conditions to licences,⁹³ amending licences and environmental management plans,⁹⁴ monitoring and environmental audits,⁹⁵ and stipulates administrative sanctions and penalties.⁹⁶

With technical support from the Asian Development Bank, the National Environment Directorate during 2013–2014 prepared the following Ministerial Diplomas to implement Decree-Law N° 5/2011:

- Regulation and guidelines on detailed requirements for screening, scoping and terms of reference for environmental impact studies and environmental management plans;
- Regulation and guidelines on procedures and requirements for public participation in the environmental assessment process;
- Regulation and guidelines on Agreements on Impacts and Benefits;
- Rules of procedure for the Evaluation Commission that will manage the environmental assessment process for large-scale projects.

As of 2014, the Ministry had these draft diplomas under discussion and had not yet issued them.

The Basic Environment Law

On 26 June 2012, Timor-Leste promulgated its Basic Environment Law.⁹⁷ The adoption of this framework law reflects the intention of one of the world's newest governments to create a comprehensive regulatory regime governing all aspects of human interaction with the natural environment. It sets out fundamental principles and provides the legal basis for the conservation and sustainable use of natural resources and sustainable development in the country, while reiterating the fundamental rights of the citizens of Timor-Leste that the 2002 Constitution establishes.

The process of developing the Basic Environment Law required more than two years, beginning in early 2010. The United Nations Environment Programme (UNEP) provided funding to the Ministry of Economy and Development, which was responsible for environment at the time. The National Environment Directorate and its Working Group on Environmental Law oversaw the drafting process. The legal adviser to the Ministry drafted the law with technical assistance from the International Union for Conservation of Nature (IUCN) and UNEP.

Throughout the drafting process, informal consultations were held with representatives of national and international organisations, national and international advisers and experts, government agencies, civil service employees and department heads, and non-governmental organisations (NGOs). Two drafts of the law were circulated for public comments. The National Parliament reviewed the draft and issued its Legislative Authorization on 12 January 2012, enabling the Council of Ministers to approve the law.⁹⁸ The Ministry held final, formal public consultations in the capital, Dili, and in several districts of the country. After final revisions, the Ministry submitted the draft to the Council of Ministers, which approved it on 11 April 2012, just before a run-off vote in the presidential election. New President Taur Matan Ruak signed the law on 26 June 2012.

The Basic Environment Law establishes the legal framework required to respond to the constitutional imperative of preserving and valuing the environment, while at the same time assuring sustainable economic development. Although international obligations are directly effective, the Law also provides for implementing them. As a framework law, the Basic Environment Law establishes principles and overarching obligations to conserve natural resources and use them sustainably and to avoid or control pollution. The Government must issue implementing regulations to provide the detailed basis for compliance with and enforcement of the Basic Environment Law.

Fundamental principles of international environmental law – inter-generational equity, sovereignty, precaution, prevention, participation, polluter pays, and subsidiarity – underpin the entire Law.⁹⁹ Significantly, the Law also recognises *tara bandu*, a customary mechanism for regulating the relationship between people and their environment. Where a *tara bandu* ritual has been carried out, the State must provide effective protection for the area involved, as long as the purpose of the customary measure is consistent with the principles established in the Law.¹⁰⁰

An integrated system of national and local public-sector authorities is responsible for administering and implementing the Law. The Law gives a central government authority the responsibility of coordinating policies, programmes, plans and projects across sectors, but it also emphasises the importance of decentralised local authorities and the participation of local communities in making decisions that impact the environment and the sustainable use of natural resources.¹⁰¹

In order to ensure that economic development is planned in a holistic manner that integrates conservation and sustainable use of natural resources, the Law requires the use of instruments including strategic environmental assessment, EIA and licensing, environmental monitoring of private-sector and public-sector activities,¹⁰² and environmental audits.¹⁰³ It requires the State to establish national environmental standards,¹⁰⁴ and stipulates that international standards are to be used until national standards are in place.¹⁰⁵ The Law requires cross-sectoral integration of national environmental policy, particularly in land-use planning.¹⁰⁶

The Law devotes a chapter¹⁰⁷ to the protection, conservation and sustainable use of environmental components, which are defined to include air, surface and ground water, soil and subsoil, biodiversity and biological resources, coastal and marine resources, ecosystem services, and non-renewable natural resources. The State is particularly responsible for preserving the national environmental heritage.¹⁰⁸ Gravel extraction and the mining industry are specifically regulated,¹⁰⁹ due to the environmental impact of these activities in the country.

Chapter IV of the Law deals with controlling all sources of pollution generally and specifically regulates the production, use and disposal of toxic chemicals and all wastes, including hazardous waste. This chapter also establishes obligations to mitigate and adapt to climate change, in particular by reducing greenhouse gas emissions.

In terms of financial measures and economic instruments, the Law provides that the environment shall be considered as a national priority in the State budget and enables the creation of a special environmental fund without prejudice for tax benefits and exemptions that may be approved.¹¹⁰ The Law also provides that communities located in areas where natural resources are exploited must have equitable access to the distribution of monetary and non-monetary benefits stemming from the exploitation and use of those resources.¹¹¹

The Law establishes a national environmental information system, national environmental reporting, and guarantees public access to environmental information.¹¹² Formal environmental education and informal training are identified as strategic factors for the sustainable development of the country, particularly in communities in rural and coastal areas where livelihoods are highly dependent on the environment and natural resources; the Law designates the central government environment and education authorities as jointly responsible.¹¹³ Campaigns to raise awareness about environmental issues among the population in general, and among civil servants in particular, are to be made a permanent part of the government's programme.¹¹⁴ The State is obligated to promote and finance scientific research and technologies that contribute to conservation, protection and sustainable use, and that prevent environmental damage.¹¹⁵

In Chapter VIII, the Law provides for a decentralised environmental inspection and compliance monitoring system, and for citizen participation in it.¹¹⁶ Similarly, it provides for citizen participation in an integrated system to prevent and respond to environmental emergencies, particularly the challenges the country faces during the rainy season.¹¹⁷ Civil liability insurance and environmental performance bonds are made mandatory for all programmes, plans or projects that are subject to environmental impact assessment.¹¹⁸

In addition to penalties for environmental crimes already stipulated in the Criminal Code, the Law provides for administrative and civil sanctions,¹¹⁹ and specifies that violators may be held responsible for reparation of environmental damage and rehabilitation of affected environmental components, and may also be required to pay compensation where rehabilitation is not possible.¹²⁰

While the Law makes it clear that the public prosecutor has primary responsibility for ensuring that violations of the law are taken to court, it provides broad standing to sue – any individual or group who perceives a threat or has suffered actual harm has direct recourse to the courts without having to first exhaust all administrative remedies.¹²¹ The Law enables alternative environmental dispute settlement procedures and specifically recognises customary dispute resolution mechanisms.¹²²

The Basic Environment Law creates a comprehensive and integrated legal foundation for conserving the environment and ensuring sustainable development in Timor-Leste, taking international obligations and the national context into account. As with any law, the critical issue is implementation. Acknowledging that the Government of Timor-Leste has multiple demands on limited human and financial resources, the Law provides that its provisions will be implemented progressively as capacity increases.¹²³

Ozone-depleting Substances

In 2012, the Government adopted a Decree-Law¹²⁴ to implement Timor-Leste's obligations under the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer. The Decree-Law explicitly applies the precautionary principle.¹²⁵ It lists controlled substances as defined in the Montreal Protocol and prohibits their import or export,¹²⁶ and establishes an annual quota on the import of hydrochlorofluorocarbons.¹²⁷ Individuals and legal entities that violate the import and export provisions of this Decree-Law are subject to a fine; the maximum fine for a legal entity is double the maximum fine for a violation by an individual.¹²⁸

Draft Laws

As of 2014, Timor-Leste had developed draft laws on biodiversity; protected areas; and forests that will be significant components of the national regulatory regime for the environment.

Biodiversity

Planning for the future Decree-Law on Biodiversity started in 2011, when work began on the Basic Environment Law. The National Environment Directorate was responsible for preparing it. One international legal adviser took the lead in drafting it, with support from other international legal advisers. The Directorate circulated the draft for comment to other ministries and NGOs, and held workshop consultations with other government agencies in several districts and in Dili during late 2011 and early 2012. The draft was revised, based on input and feedback from these consultations and workshops, and finalised in August 2013. The draft Decree-Law is based on the principles, approaches and obligations that the Convention on Biological Diversity (CBD) establishes. As of 2014, it was under consultation with other ministries and key stakeholders.

The draft specifies the functions of national and local authorities, and the roles of civil society and the private sector. In the current government structure, the Ministry

of Commerce, Industry and Environment is responsible for the environment and biodiversity, and the Ministry of Agriculture and Fisheries is responsible for most biological resources. The draft Decree-Law recognises this division of responsibility and stipulates the functions of each ministry. The draft creates a Biodiversity Advisory Committee to advise any Minister on biodiversity issues.

Inventorying and monitoring biological resources and planning for biodiversity conservation are key elements of the draft Decree-Law. Planning includes the National Biodiversity Strategy and Action Plan as well as local biodiversity plans. The draft Decree-Law sets out in detail what must be done to identify and inventory biological resources.

In-situ conservation, a CBD priority, requires protection and conservation of ecosystems and species. The draft Decree-Law provides for a national system of protected areas, which is addressed in detail through a separate Decree Law (see below). It provides for rehabilitating degraded ecosystems, preserving habitats of protected species, and recognising *tara bandu*. The draft Decree-Law also provides for listing and restoring protected species, managing non-protected species, regulating trade in species, and controlling alien species and other threats to biodiversity. The draft Decree-Law stipulates that biodiversity considerations must be taken into account in EIAs and establishes requirements for permits. It regulates *ex-situ* conservation as well as *in-situ* conservation, and also provides for regulating genetically modified organisms and access to genetic resources and benefit sharing.

The draft Decree-Law mandates access to public information on biodiversity and requires the government to promote education, public awareness, training and research that focus on biodiversity. The draft also promotes the economic valuation of biodiversity and biological resources, and the use of incentives and other economic instruments to support conservation. It sets minimum requirements for public participation in any consultation mandated by any of its provisions. The draft Decree-Law provides for compliance and enforcement, including standing to sue and alternative dispute resolution mechanisms, as well as administrative sanctions and civil and criminal penalties. When adopted, the Biodiversity Decree-Law will repeal provisions in UNTAET Regulation No. 2000/19 on endangered species, wetlands and mangroves. Implementing the detailed aspects of the eventual Biodiversity Decree-Law will require ministerial diplomas and other technical and legal guidance.

Protected Areas

The draft Decree-Law on Establishment and Management of Protected Areas took three years to prepare and was completed in 2013.¹²⁹ The Department of Protected Areas and National Parks, which is part of the Ministry of Agriculture and Fisheries, involved as many institutions and individuals as possible throughout the process of drafting the Decree-Law. The Department circulated several drafts of the law for public comments and, during November 2012–January 2013, carried out field

consultations that involved participants from all districts in the country. Comments and recommendations from the field consultations were incorporated into the final draft of the Decree-Law. The Department submitted the draft Decree-Law to the Council of Ministers in September 2013.

The draft Biodiversity Decree-Law (see above) and draft Law on Forest Management (see below) also have provisions on protected areas. All three draft laws should be harmonised before they are formally adopted. When it is adopted, the Decree-Law on Establishment and Management of Protected Areas will replace the provisions on protected areas in UNTAET Regulation No. 2000/19 on Protected Places.

The draft Decree-Law on Protected Areas establishes a national system of protected areas and requires the Government to prepare a national protected area system plan. It recognises and incorporates *tara bandu* and other traditional measures for protecting and sustainably using natural resources. The draft Decree-Law stipulates the roles and responsibilities of the institutions and individuals involved in planning and managing protected areas, and requires that a local management committee be created for each protected area.

The draft Protected Areas Decree-Law specifies the authority and procedures for identifying and designating protected areas, and for providing provisional protection for an area while the process of declaring it as protected is proceeding. It provides for demarcating protected areas, requires a management plan for each protected area, establishes the categories of protected areas that Timor-Leste will recognise and the zones that may be created in a protected area, and enables community and private protected areas. The draft Decree-Law enables the creation of corridors to connect protected areas and to connect habitats within a protected area. It also stipulates activities that are permitted and prohibited in a protected area.

Ministerial diplomas that the Ministry of Agriculture and Fisheries had already issued in 2010 establish the requirements for permits and licences for specified activities in protected areas; the draft Decree-Law provides the formal legal cover for those regulations. It also enables a range of sources of revenue for protected areas, including payments for ecosystem services. The draft Protected Areas Decree-Law provides for monitoring protected areas, recognises traditional dispute resolution mechanisms, and establishes the basis for compliance and enforcement, including administrative sanctions and criminal penalties.

Forests

The draft Forest Management Law sets out fundamental principles for forest management. It establishes three categories of forests: State forest; community forest; and private forest. The draft law requires national and district-level forest management plans and specifies what their minimum contents must be. It mandates afforestation and reforestation programmes, and prioritises the use of indigenous species.

The draft Law recognises community land rights and requires local authorities to enter into long-term – minimum

25 years – community forest management agreements to formalise local collaboration in implementing district-level forest management plans. It specifies in detail the procedures for developing a community forest management agreement, the individuals and institutions that must be involved in developing such an agreement, and what the minimum contents must be. So that communities have the legal personality required to enter into an agreement, the draft Forest Management Law enables them to be legally recognised as forest management associations, and exempts them from taxes if their income is below a specified threshold.



Erosion in Timor Leste

Courtesy: theconversation.com

The draft Law prohibits cutting trees and collecting forest products without a permit; exporting the wood of five species of trees; and burning during periods and in areas that the Ministry may specify. It provides for restricting access to forest areas. The draft Forest Management Law, which was prepared several years prior to the draft Protected Areas Decree-Law, has three general provisions on protected areas that should be deleted, or at least harmonised with the draft Protected Areas Decree-Law, before the Law is adopted.

The draft Forest Management Law provides for traditional dispute resolution mechanisms as well as mediation and arbitration, stipulates administrative sanctions, and specifies criminal penalties for polluting protected areas, and cutting and exporting wood without a permit.

Environmental Law Training

In 2014, the Legal Training Center (LTC)/*Centro de Formação Jurídica* of Timor-Leste's Ministry of Justice offered the first-ever course on national environmental law.¹³⁰ The LTC is an autonomous technical entity whose mission is to provide technical, legal, linguistic and ethical training for judges, public defenders and other legal professionals, and to contribute to the proper administration of justice, development of knowledge, and improvement of the law. The LTC offers an 18-month course that prepares qualified Timorese candidates to be licensed to practise law in the country. The core curriculum

focuses on constitutional, civil, administrative and criminal law.

Portuguese is the LTC's medium of instruction, and is the country's only *de facto* legal language because Tétum, the indigenous official language, does not yet have words for many legal concepts.¹³¹ The LTC is in the process of preparing a Portuguese/Tétum legal dictionary.

To supplement the core curriculum, the LTC is gradually introducing short courses on specialised issues, including environmental law. The 2014 environmental law course provided a brief overview of the MEAs to which Timor-Leste is a Party and explained how national law is integrating those international obligations. The course reviewed the constitutional provisions that are the foundation for environmental law in the country and then focused on the Basic Environment Law, the Decree-Law on Environmental Licensing, the fisheries sector laws and regulations, and the Criminal Code provisions on environmental crimes. It also introduced the draft laws that were under consideration in 2014. The LTC has made the training materials available on its website.¹³²

Conclusion

Timor-Leste's Constitution laid the foundation for national environmental law, and successive governments have taken significant steps to build on that foundation to ensure that the country's natural resources are sustainably used and protected when necessary. The government has acknowledged in the context of EIA that understanding of national law is relatively low, which impedes compliance. One of the reasons for that low level of understanding is that most of the legal instruments at every level of the national legal hierarchy were adopted and published in Portuguese, a language in which only a quarter of the population is literate. As the government of Timor-Leste continues to expand its environmental legal regime and seeks to strengthen implementation, compliance and enforcement, one of its challenges will be to ensure access to environmental laws and regulations in both official languages. The Legal Training Center's initiative to prepare a Portuguese/Tétum legal dictionary will support that goal, particularly among legal professionals. The greater challenge will be to make environmental law accessible to all citizens and, particularly, to government officials. The Basic Environment Law acknowledges that the Government of Timor-Leste has multiple demands on limited human and financial resources and provides that the Law will be implemented progressively as capacity increases. Building the human resource capacity to implement the country's environmental legal regime will be an on-going challenge.

Notes

1 United Nations Transitional Administration in East Timor (UNTAET). "East Timor – UNTAET Background". Online at <http://www.un.org/en/peacekeeping/missions/past/untimet/background.htm>.

2 Sources of this summary are found at the following three websites: Government of Timor-Leste, "History", at <http://timor-leste.gov.tl/?p=29&lang=en>; Government of the Democratic Republic of Timor-Leste, "About Timor-Leste", at <http://gov.east-timor.org/AboutTimorleste/timorleste.htm>; and United Nations Integrated Mission in Timor-Leste, "UNMIT Background", at <http://www.un.org/en/peacekeeping/missions/past/unmit/background.shtml>.

3 Hägerdal, H. 2012. *Lords of the Land, Lords of the Sea: Conflict and adaptation in early colonial Timor, 1600–1800*, at 65. Leiden: KITLV Press. Online at <http://kitlv.nl/product/lords-of-the-land-lords-of-the-sea-conflict-and-adaptation-in-early-colonial-timor-1600-1800/>.

4 The predominant religion in the western part of the island is Islam, as in the rest of Indonesia.

5 Government of Timor-Leste, *supra*, note 2.

6 See http://www.nobelprize.org/nobel_prizes/peace/laureates/1996/press.html.

7 Constitution of the Republic of Timor-Leste. 20 May 2002. Available online in Portuguese at http://www.jornal.gov.tl/public/docs/ConstituicaoRDTL_Portugues.pdf; in English at http://www.constitution.org/cons/east_timor/constitution-eng.htm; and in Tétum at http://jornal.gov.tl/public/docs/ConstituicaoRDTL_tetum.pdf.

8 Government of Timor-Leste, *supra*, note 2.

9 United Nations Security Council. 2006. Security Council Resolution 1704 (2006) [On Establishment of the UN Integrated Mission in Timor-Leste (UNMIT)], 25 August 2006. UN Doc. S/RES/1704 (2006), at http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1704%282006%29.

10 See Government of Timor-Leste. "Prime Minister and high-level delegation visit New York for 67th United Nations General Assembly". 24 September 2012. Online at <http://timor-leste.gov.tl/?p=7256&lang=en>. See also Ora, T. 2012. "Timor Leste: UN no longer needed, says Premier". *Eurasia Review*. 5 October. Online at <http://www.eurasiareview.com/05102012-timor-leste-un-no-longer-needed-says-premier/>.

11 Government of Timor-Leste. "About", at <http://timor-leste.gov.tl/?p=547&lang=en>.

12 The generation that came of age while the country was an Indonesian province speaks and reads Bahasa Indonesia, but Timor-Leste does not officially recognise that language or use it in formal legal documents.

13 National Statistics Directorate and United Nations Population Fund. 2012. *Timor-Leste Population and Housing Census 2010. Analytical Report on Education*. Volume 9, at 41–42. Available online at http://www.statistics.gov.tl/wp-content/uploads/2013/12/Education_Monograph.pdf. Forty-two percent of the population was literate in Bahasa Indonesia in 2010.

14 UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, at <http://www.unohrls.org/>.

15 United States Central Intelligence Agency. *The World Factbook*. "Timor-Leste: Economy". Available at <https://www.cia.gov/library/publications/the-world-factbook/geos/tl.html>.

16 *Ibid.*

17 Petroleum Fund Law/*Lei do Fundo Petrolífero*, Nº 9/2005, promulgated 13 July 2005, in force 3 August 2005. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/909>; and in English at http://timor-leste.gov.tl/wp-content/uploads/2010/03/Law_2005_9_petroleum_fund_law.pdf.

18 The other three targets of Millennium Development Goal 7 are to: integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources; reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss; and achieve significant improvement in lives of slum dwellers, by 2020. UNDP in Timor-Leste. 2012. "Millennium Development Goals. Overview. Ensure Environmental Sustainability. Where are we?" Online at http://www.tl.undp.org/content/timor_leste/en/home/mdgoverview/overview/mdg7/.

19 *Supra*, note 7.

20 *Ibid.*, Article 95.

21 *Ibid.*, Article 96.

22 *Ibid.*, Article 6.

23 Pedro Carlos Bacelar de Vasconcelos *et al.* (Eds) 2011. *Constituição Anotada da República Democrática de Timor-Leste*. Braga: Direitos Humanos-Centro de Investigação Interdisciplinar, Escola de Direito da Universidade do Minho, Campus de Gualtar. Available online in Portuguese at http://www.direito.uminho.pt/uploads/evntos/EV_6146/20121017421827703750.pdf.

24 *Supra*, note 7, Article 6.

25 *Ibid.*, Article 61.

26 *Ibid.*, Article 61.

27 *Ibid.*, Article 139.

28 Government of Timor-Leste. 2011. *Timor-Leste Strategic Development Plan 2011–2030: Version submitted to the National Parliament*, at 220. Available at <http://timor-leste.gov.tl/wp-content/uploads/2011/07/Timor-Leste-Strategic-Plan-2011-20301.pdf>.

29 *Ibid.*, at 54.

30 *Ibid.*, at 60. See also Government of Timor-Leste. 2011. *National Biodiversity Strategy and Action Plan of Timor-Leste (2011–2020)*, at 12. Available at http://www.tl.undp.org/content/dam/timorleste/docs/library/ENVvacb_nbsap_timorleste_final%20printingv.1.pdf.

31 Basic Environment Law/*Lei de Bases do Ambiente*. Promulgated as Decree-Law/*Decreto-Lei* Nº 26/2012 on 26 June 2012, and entered into force on 4 July 2012. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1083>.

32 *Supra*, note 28, at 54.

33 *Ibid.*, at 60.

- 34 Environmental Licensing/*Licenciamento Ambiental*, Decree-Law N° 5/2011, promulgated on 4 February 2011 and entered into force on 23 February 2011. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1139>.
- 35 Creating the Designated National Authority to implement projects under the Clean Development Mechanism/*Cria a Autoridade Nacional Designada para a implementação dos projectos do mecanismo de desenvolvimento limpo*, Government Decree N° 1/2012, approved by the Council of Ministers on 11 January 2012 and entered into force on 1 February 2012. Available online in Portuguese at http://www.jornal.gov.tl/public/docs/2012/serie_1/serie1_n04.pdf.
- 36 UNDP in Timor-Leste. 2014. "GoTL, UNTL and UNDP Launch New Center for Climate Change and Biodiversity". 22 May. Available at http://www.tl.undp.org/content/timor_leste/en/home/presscenter/pressreleases/2014/05/22/gotl-untl-and-undp-launch-new-center-for-climate-change-and-biodiversity/.
- 37 *Supra*, note 28, at 57.
- 38 *Ibid.*
- 39 *Ibid.*, at 56.
- 40 Control of Imports and Exports of Substances that Deplete the Ozone Layer/*Controlo das importações e exportações de substâncias que empobrecem a camada do ozono*, Decree-Law N° 36/2012, promulgated on 13 July 2012 and entered into force on 18 July 2012. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1123>.
- 41 Section 105 of the Constitution specifies that the Council of Ministers comprises the Prime Minister, Deputy Prime Ministers, if any, and the Ministers. Section 116 assigns to the Council of Ministers the powers to define the general guidelines of government policy, approve bills and draft resolutions, and approve statutes that are not required to be submitted to the National Parliament under Section 96 of the Constitution.
- 42 UNTAET Regulation No. 2000/17 on the Prohibition of Logging Operations and the Export of Wood from East Timor. Available online in English at <http://www.jornal.gov.tl/lawsTL/UNTAET-Law/Regulations%20English/Reg2000-17.pdf>.
- 43 UNTAET Regulation No. 2000/19 on Protected Places. Available online in English at <http://www.jornal.gov.tl/lawsTL/UNTAET-Law/Regulations%20English/Reg2000-19.pdf>.
- 44 *Supra*, note 7, Article 9.
- 45 *Supra*, note 28, at 131.
- 46 General Basis for the Legal Regime on Fisheries Management and Planning/*Bases Gerais do Regime Jurídico da Gestão e Ordenamento da Pesca e Aquicultura*, Decree-Law N° 6/2004, approved by the Council of Ministers on 3 March 2004 and entered into force on 21 May 2004. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1439>.
- 47 General Fisheries Regulation/*Regulamento Geral de Pescas*, Government Decree N° 5/2004, approved by the Council of Ministers on 7 May 2004 and entered into force 22 July 2004. Available online in Portuguese at http://www.jornal.gov.tl/public/docs/2002_2005/decreto_governo/5_2004.pdf.
- 48 *Supra*, note 46, Article 6; and note 47, Article 7.
- 49 *Supra*, note 47, Article 8.
- 50 *Ibid.*, Article 122.
- 51 *Supra*, note 46, Articles 10 and 11.
- 52 *Ibid.*, Articles 11 and 15.
- 53 *Ibid.*, Article 66.
- 54 *Ibid.*, Article 81.
- 55 Decree-Law N° 5/2011 on environmental licensing does not list aquaculture as an activity that requires an EIA.
- 56 *Supra*, note 46, Articles 130–132.
- 57 *Supra*, note 47, Article 191.
- 58 *Supra*, note 46, Article 98.
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- 60 Definition of Fishery Zones/*Definição das Zonas de Pescas*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 01/03/GM/I/2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005. 2007 amendment available online in Portuguese at <http://www.jornal.gov.tl/?q=node/3416>.
- 61 Principal Commercial Fisheries Resources/*Principais Pescarias*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 02/04/GM/I/2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005.
- 62 Sizes and Minimum Weights of Species that May Be Fished/*Tamanhos e Pesos Mínimos de Espécies a Capturar*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 05/116/GI/WTV/2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005.
- 63 Allowable By-catch Percentages/*Percentagens de Captura Acessórias Toleradas*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 03/05/GM/I/2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005.
- 64 Fisheries Crimes/*Crimes Relativos à Pesca*, Law N° 12/2004, promulgated 27 December 2004, entered into force 22 December 2004, repealed by the Criminal Code. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/982>.
- 65 *Ibid.*, Article 1.
- 66 *Ibid.*, Article 2.
- 67 Criminal Code/*Código Penal*, Decree-Law N° 19/2009, approved by the Council of Ministers 18 March 2009, entered into force 60 days after its publication on 8 April 2009. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1271>.
- 68 *Ibid.*, Articles 219° and 220°.
- 69 Fines for Fisheries Violations/*Coimas por Infrações de Pesca*, Ministry of Agriculture and Fisheries Ministerial Diploma No. 06/42/GM/II/2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005.
- 70 Lists of Protected Aquatic Species/*Listas das Espécies Aquáticas Protegidas*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 04/115/GM/M2005. Published in the Journal of the Republic/*Jornal da República* on 2 May 2005.
- 71 *Supra*, note 67. See also Legislative Authorization for the Criminal Code/*Lei de Autorização Legislativa em Matéria Penal*, Law N° 16/2005. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/969>.
- 72 *Supra*, note 67, Title III, Section II, Articles 215–221.
- 73 *Ibid.*, Article 215.1°.
- 74 *Ibid.*, Article 215.2°.
- 75 *Ibid.*, Article 216°.
- 76 *Ibid.*, Article 217°.
- 77 *Ibid.*, Article 218°.
- 78 UNTAET Regulation 2000/19, Article 3. Endangered species are sea tortoises; sea turtles; marine mammals, including bottlenose dolphins, whales and dugongs; wallabies; crocodiles; and all animal and plant species listed in Appendix I or Appendix II of the Convention on International Trade in Endangered Species (CITES).
- 79 *Supra*, note 67, Article 221°.
- 80 *Ibid.*, Article 217°.
- 81 Creation of Nino Konis Santana National Park/*Cria o Parque Nacional Nino Konis Santana*, Government Resolution N° 8/2007, approved by the Council of Ministers on 26 July 2007, entered into force 2 August 2007. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1852>.
- 82 Admission to Protected Areas and the National Park/*Admissão Entrada Areas Protegidas no Parque Nacional*, Ministry of Agriculture and Fisheries Ministerial Diploma N° 429/10/DM/XI/10, 6 November 2010. Available online in Tétum at <http://www.jornal.gov.tl/?q=node/5084>.
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- 85 *Supra*, note 34.
- 86 Environmental Licensing Obligations, Ministry of Commerce, Industry and Environment, National Environment Directorate Notification N° 58/DNMA-SEMA/IV/2014, 10 April. Available online in Tétum at <http://www.laohamutuk.org/Agri/EnvLaw/2014/DNMANotifikasaun10Apr2014.pdf>.
- 87 *Supra*, note 34, Article 4°.
- 88 As of 2013, the National Environment Directorate in the Ministry of Commerce, Industry and Environment is responsible for EIAs. Organizational Structure of the Ministry of Commerce, Industry and Environment/*Estrutura Orgânica do Ministério do Comércio, Indústria e Ambiente*, Decree-Law N° 01/2013. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/1015>.
- 89 *Supra*, note 34, Article 10.
- 90 *Ibid.*, Article 11.
- 91 *Ibid.*, Articles 15 and 16.
- 92 *Ibid.*, Articles 17–20.
- 93 *Ibid.*, Articles 21–24.
- 94 *Ibid.*, Articles 25–28.
- 95 *Ibid.*, Articles 29–33.
- 96 *Ibid.*, Articles 34–37.
- 97 *Supra*, note 31.
- 98 Legislative Authorization for Environmental Matters/*Autorização Legislativa em Matéria Ambiental*, Law N° 3/2012. Available online in Portuguese at <http://www.jornal.gov.tl/?q=node/788>.
- 99 *Supra*, note 31, Article 5.
- 100 *Ibid.*, Article 8.
- 101 *Ibid.*, Chapter II, Articles 9–12.
- 102 *Ibid.*, Articles 13, 15 and 16 respectively.
- 103 *Ibid.*, Article 68.
- 104 *Ibid.*, Article 14.

- 105 *Ibid.*, Article 67.
 106 *Ibid.*, Chapter III, Section II, Articles 17–21.
 107 *Ibid.*, Chapter IV.
 108 *Ibid.*, Article 29.
 109 *Ibid.*, Articles 30 and 31.
 110 *Ibid.*, Chapter VI, Articles 43–46.
 111 *Ibid.*, Article 47.
 112 *Ibid.*, Articles 48, 49 and 50.
 113 *Ibid.*, Article 51.
 114 *Ibid.*, Article 52.
 115 *Ibid.*, Article 53.
 116 *Ibid.*, Articles 54 and 55.
 117 *Ibid.*, Article 56.
 118 *Ibid.*, Articles 57 and 58.
 119 *Ibid.*, Articles 59, 60 and 61.
 120 *Ibid.*, Article 62.
 121 *Ibid.*, Article 63.
 122 *Ibid.*, Article 64.
 123 *Ibid.*, Article 70.
 124 Control of Imports and Exports of Substances that Deplete the Ozone Layer/

- Controlo das importações e exportações de substâncias que empobrecem a camada do ozono*, Decree-Law N° 36/2012, promulgated on 13 July 2012, entered into force on 19 July 2012. Available online in Portuguese at <http://www.jornal.gov.pt/?q=node/1123>.
 125 *Ibid.*, Article 4.
 126 *Ibid.*, Articles 6 and 7.
 127 *Ibid.*, Article 8.
 128 *Ibid.*, Article 13. For a violation by an individual, the penalty is a minimum fine of US\$1,000 and a maximum fine of US\$15,000. If a legal entity commits a violation, the minimum fine is the same, but the maximum fine is US\$30,000.
 129 The IUCN Environmental Law Centre provided the funding for the project that supported drafting the Decree-Law. In 2011, IUCN published updated *Guidelines for Protected Areas Legislation* that reflect the state of the art in protected area law world-wide. The drafting process referred to these Guidelines.
 130 See <http://cfj.mj.gov.pt/?q=node/46>. An Asian Development Bank project that supports the Coral Triangle Initiative provided funding through the IUCN Oceania Regional Office to develop the course materials and deliver the first course.
 131 To date, when Tétum does not have a word that corresponds to a civil law concept, translators use the Portuguese word and give it a Tétum spelling.
 132 See <http://cfj.mj.gov.pt/?q=node/47>.



REFERENCES TO OTHER TOPICS

United Nations

- **Toward Climate Change Agreement**
 The UN Secretary General Ban Ki-moon declared 2015 to be “pivotal for global action on climate change” in regards to the Paris Climate Talks later this year, noting that the challenge will come in seeking to finalise a meaningful, universal agreement on climate change. Online at <http://www.un.org/apps/news/story.asp?NewsID=50151#.VRkjsv8cTcs>.
- **Global Response to Cyclone Pam**
 The UN has announced that it is taking all necessary steps to respond to the devastating impact of tropical cyclone Pam in the South Pacific. Online at <http://www.un.org/apps/news/story.asp?NewsID=50327#.VREqqP90zcs>.
- **2nd Conference on Landlocked Developing Countries**
 The General Assembly has published a report on the Outcome of the second United Nations Conference on Landlocked Developing Countries in UN Document A/69/708, which can be accessed at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/718/80/PDF/N1471880.pdf?OpenElement>.
- **UNEA Report to UNGA-69**
 The report of the United Nations Environment Assembly (UNEA), as submitted to UNGA-69, was formally adopted in Resolution A/RES/69/223, and as such can be accessed online at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/69/223.
- **Butterfly Monitoring**
 The United Nations Environment Programme (UNEP), coordinating through its World Conservation Monitoring Centre and several other environmental organisations, has begun the process of developing a set of globally standardised butterfly monitoring guidelines to enable aggregation of data through essential biodiversity variables, with the goal of implementing a global butterfly indicator. Online at <http://biodiversity-l.iisd.org/news/unep-wcmc-and-partners-convene-workshop-on-global-butterfly-indicator/>.
- **Support for the SDGs**
 In its February session, the UNEP Committee of Permanent Representatives received a briefing on the status of the 10-Year Framework of Programmes on Sustainable Consumption and Production Patterns (the 10YFP). UNEP has released the briefing along with briefing papers on a number of other key topics through its non-governmental liaison service at http://www.un-ngls.org/spip.php?page=article_s&id_article=4427. In particular,

information underlying the 10YFP briefing on “Sustainable Consumption and Production” is available online at http://www.un-ngls.org/IMG/pdf/UNEP_Briefing_Note_2_SCP_250314.pdf. [TRY]

- **SDG Indicator**
 UNEP has published a paper titled “A Common Approach for Developing SDG Integrated Indicators”, promoting the need for indicators that can support the level of ambition and transformative nature of the SDG targets and goals. The full paper can be found online at <http://unstats.un.org/unsd/post-2015/activities/egm-on-indicator-framework/docs/Common%20approach%20for%20developing%20SDG%20Integrated%20indicators.pdf>.

UNCCD Committee on Science and Technology

The UN Convention to Combat Desertification (UNCCD) convened the fourth session of its Committee on Science and Technology from 9–12 March 2015 in Cancun, Mexico, under the theme “Combating desertification/land degradation and drought for poverty reduction and sustainable development”. Shortly thereafter, it held the 13th meeting of its Committee for the Review of Implementation of the Convention, in Bonn, Germany. The IISD reports of the two meetings can be accessed at <http://www.iisd.ca/download/pdf/enb04255e.pdf> and www.iisd.ca/desert/cric13/.

UNIDO Experts Discuss Sustainable Consumption and Production

The United Nations Industrial Development Organization (UNIDO) hosted an expert group meeting in Vienna, Austria to discuss Chapter 5 (“Economic Growth, Inclusive and Sustainable Industrial Development and Sustainable Consumption and Production”) of the Global Sustainable Development Report. The IISD report of this expert meeting is available at <http://www.iisd.ca/unido/gsr/egm/>.

ITLOS 2013 Yearbook

The Yearbook for 2013 of the International Tribunal for the Law of the Sea (ITLOS) is now available, comprising full descriptions of the organisation and functioning of the Tribunal, competences, procedure, judicial work of the Tribunal, sessions and activities of the Tribunal, finances of the Tribunal, privileges and immunities, biographies of the judges, the registrar and the deputy, a select biography on settlement of disputes concerning the law of the sea, as well as several annexes. The bilingual volume can be purchased online at <http://www.brill.com/products/reference-work/yearbook-international-tribunal-law-sea-annuaire-tribunal-international-du-droit-de-la-mer-volume-17>.