



UNTAET

UNITED NATIONS TRANSITIONAL ADMINISTRATION IN EAST TIMOR
Administração Transitória das Nações Unidas em Timor Leste

UNTAET/REG/2000/9
25 February 2000

REGULATION NO. 2000/9

ON THE ESTABLISHMENT OF A BORDER REGIME FOR EAST TIMOR

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council resolution 1272 (1999) of 25 October 1999,

Taking into account United Nations Transitional Administration in East Timor (UNTAET) Regulation 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor,

After consultation in the National Consultative Council,

For the purpose of establishing a border regime to control entry and exit of persons and goods to and from East Timor,

Promulgates the following:

Section 1

Establishment of the Border Service for East Timor

1.1 There shall be established a Border Service for East Timor (hereinafter: "Border Service").

1.2 The purpose of the Border Service is to control the movement of persons and goods to and from the borders of East Timor.

Section 2
Border Service Controller

The Border Service shall be managed by a Border Service Controller (hereinafter: the Controller), who shall be appointed by the Transitional Administrator after consultation in the National Consultative Council. The Controller shall report to the Transitional Administrator through the Deputy Transitional Administrator for Governance and Public Administration.

Section 3
Responsibilities of the Border Service Controller

Subject to the present regulation or any other UNTAET regulation, the Controller shall have the following responsibilities:

- (a) to establish such offices and administrative structures as may be necessary to carry out the purposes of the present regulation; and
- (b) to recommend to the Transitional Administrator the promulgation of UNTAET regulations and directives in order to:
 - (i) establish forms and procedures for border control;
 - (ii) designate ports of entry and border control stations;
 - (iii) regulate the import or export of goods or classes of goods;
 - (iv) provide for the search and seizure of goods in accordance with applicable laws;
 - (v) provide for the collection of taxes and duties that are payable pursuant to any UNTAET regulation or directive;
 - (vi) establish and administer appropriate schedules of tariffs for the purposes of revenue collection;
 - (vii) regulate the entry and exit of people to and from East Timor;
 - (viii) provide for the arrest, detention, and deportation of a person, in accordance with applicable law;
 - (ix) establish offences and penalties for the breach of relevant UNTAET regulations and directives; and
 - (x) provide for other matters relevant to the purposes of the present regulation.

Section 4
Objectives

4.1 The Controller shall ensure that the present regulation, and any other relevant subsequent UNTAET regulation or directive, is implemented in a way that protects and promotes the domestic and international interests of East Timor.

4.2 In particular, the Controller shall ensure that the administration of the present regulation:

- (a) enhances the capacity of East Timor to manage and protect its borders;
- (b) ensures security for the people of East Timor;
- (c) respects the cultural and social fabric of East Timor;
- (d) facilitates family reunification in East Timor;
- (e) facilitates the entry of visitors into East Timor for the purpose of fostering trade and commerce, tourism, cultural and scientific activities and international understanding;
- (f) facilitates the orderly and prompt repatriation of refugees entitled to return to East Timor;
- (g) fosters the development of a strong and viable economy and the prosperity of East Timor;
- (h) provides revenue for the administration of East Timor;
- (i) maintains and protect the health, safety and good order of the East Timorese community; and
- (j) promotes the enforcement of international law and order by denying the use of East Timor to persons who have engaged in, currently engage in, or who are likely to engage in criminal activity.

Section 5
Right of exit

5.1 Subject to compliance with the law and with border control procedures, all persons have the right of exit from East Timor, provided that they are in possession of necessary travel documents and are not subject to any orders or restrictions under applicable law.

Section 6
Examinations for entry

6.1 Subject to the present regulation, a person seeking entry to East Timor shall appear before an officer of the Border Service (hereinafter: officer) at a port of entry, border control station or at such other place as may be designated by the Controller, for examination to determine whether the person may be granted entry to East Timor.

6.2 A person appearing for examination shall answer truthfully all questions put to that person and shall produce such documentation as may be required for the purpose of establishing whether the person may be granted entry.

Section 7
Permits to enter East Timor

7.1 Persons seeking entry to East Timor are to be classified into persons who require permits granting entry into East Timor (hereinafter: permits), and persons who do not require such permits.

7.2 Officers shall issue visitor permits valid for a duration of up to 90 days, in accordance with the present regulation and with applicable law.

7.3 The issuance of residence permits may be the subject of a separate UNTAET regulation.

7.4 Until a regulation on East Timorese citizenship is promulgated by the Transitional Administrator, a person seeking entry to East Timor will not require a permit if that person:

- (a) is a member of UNTAET, an official of the United Nations, an official of any other UN organization or international intergovernmental organization, or an official of a representative mission recognized by the Transitional Administrator as operating in East Timor;
- (b) was born in East Timor before December 1975;
- (c) was born outside East Timor but with one parent or grandparent born in East Timor before December 1975;
- (d) is the spouse, or the dependent child aged under 18, of a person who falls under either of (b) or (c) above.

7.5 The burden of proof for entry to East Timor rests on the person seeking such entry.

Section 8

Powers of a Border Service Officer in relation to permits

8.1 An officer who receives an application for a permit shall either approve or refuse the application, and shall notify the applicant of the decision.

8.2 At any time after an application for a permit is approved, the officer may:

- (a) vary or revoke any terms and conditions subject to which the person was granted entry;
- (b) add terms and conditions as prescribed by the present regulation and other UNTAET regulations and directives;
- (c) extend the permit.

8.3 Subject to the present regulation, a visitor seeking an extension of a permit pursuant to Section 8.2(c) shall appear before an officer at such place as may be designated by the Controller, for examination to determine whether the visitor may be granted an extension of a permit.

8.4 A visitor appearing for examination pursuant to Section 8.3 shall answer truthfully all questions put to that visitor and shall produce such documentation as may be required for the purpose of establishing whether the visitor may be granted an extension of a permit.

Section 9

Persons who may be denied entry to East Timor

9.1 An officer who receives an application for a permit may refuse the application if the officer has reasonable grounds to believe that the applicant:

- (a) is suffering from any serious communicable disease, or is suffering from any disorder, disability or other health impairment for which commercial health services are not readily available in East Timor;
- (b) will be unable or unwilling to support themselves, and those persons who are dependent on the person;
- (c) has been previously convicted in East Timor of an offence or a crime, or has been deported from East Timor in accordance with Section 9.1(i);
- (d) is or was a member of a criminal organization;
- (e) will commit offences, or engage in criminal activity planned and organized by persons acting in concert in furtherance of the commission of any offence;
- (f) will engage or has engaged in acts which are offensive to the principles of democratic government, institutions or processes, will engage or has engaged in terrorism, or is a member of an organization that there are reasonable grounds to believe will:
 - (i) engage in acts which are offensive to the principles of democratic government, institutions or processes, as they are understood in East Timor;
 - (ii) engage in or instigate the removal by force of any government, or
 - (iii) engage in terrorism;
- (g) will engage in acts of violence that would or might endanger the lives or safety of persons in East Timor, or who is a member of an organization which engages in such acts;
- (h) has committed acts or omissions that constituted a war crime or a crime against humanity within the meaning of the Statute for the International Criminal Court;
- (i) has previously been deported from, or denied entry to, East Timor, or an international territory with border control formalities.

9.2 In exercising the discretion set out in Section 9.1, an officer shall consider whether the entry of the person poses a substantial risk to the people or interests of East Timor.

Section 10 Notice to depart

10.1 Where an officer, upon examination of a person, is of the opinion that it would be contrary to the present regulation to grant entry to the person, or to extend the permit of a person, the officer may, as appropriate to the conditions:

- (a) allow that person to leave East Timor immediately or within a specified period, or

- (b) serve that person with a Notice to Depart (hereinafter: “Notice”) within a specified period.

10.2 A Notice must specify:

- (a) that the person must depart East Timor within a specified period or else face deportation proceedings;
- (b) the reasons why the notice is being served;
- (c) that the person may object in writing to the Controller within a specified time to this Notice, or give reasons why the Notice should not remain in force, and
- (d) that timely compliance will have not adverse consequences for the return of a person who otherwise complies with entry requirements.

10.3 Where the Controller receives written objections or reasons from a person under Section 10.2, the Controller shall:

- (a) consider these promptly, and
- (b) make a prompt determination as to the fair and lawful use of the power, and
- (c) advise the person in writing of the decision.

Section 11 Revocation of a permit

An officer may revoke a person’s permit if

- (a) the circumstances which formed the basis of the approval of the person’s application for the permit no longer exist;
- (b) the person breaches a prescribed term of the permit;
- (c) another person required to comply with a condition of the permit has not complied with that condition;
- (d) the presence of the person in East Timor is, or would be, a risk to the health, safety or good order of the East Timorese community;
- (e) the permit should not have been granted because the application for the permit was in contravention of the present regulation or of another law of the East Timor.

Section 12 Identification and seizure of documents

12.1 Persons shall comply with instructions of an officer providing for their identification if they seek entry into East Timor, if they make an application for the renewal of a permit, if they are arrested or have been reported to a police officer, or if they are liable to deportation under Section 15 of the present regulation.

12.2 For the purpose of identification, an officer may

- (a) search persons whom the officer believes have not revealed their identity or who have hidden on or about their person documents that are relevant to a decision as to whether they may be granted permission to enter East Timor, and may search any vehicle that conveyed the persons to East Timor and their luggage and personal effects;
- (b) search persons whom the officer believes on reasonable grounds have committed, or who are in possession of documents that may be used in the commission of, an offence, and search any vehicle that conveyed the person to East Timor and their luggage and personal effects;
- (c) examine at a port of entry or any other place in East Timor, for the purpose of the present regulation or relevant directives, any permit, passport, travel document or any document or thing purporting to be any of those documents or things that is, or is about to be, imported into or exported from East Timor.

12.3 An officer may seize and hold at a port of entry or any other place in East Timor any object or document if the officer, on reasonable grounds, deems this necessary for the discharge of the functions of the officer under the present regulation.

12.4 An officer may seize and hold any object or document if the officer, on reasonable grounds, believes that it has been fraudulently or improperly obtained or used, or that action is necessary to prevent its fraudulent or improper use.

Section 13 Search of a person

13.1 An officer may, without a warrant, search a person who seeks entry to East Timor.

13.2 The search of a person must be made by an officer pursuant to the present regulation and must be made on reasonable grounds.

13.3 No person shall be searched by a person who is not of the same sex, and if there is no officer of the same sex at the place at which the search is to take place, an officer may authorize any suitable person of the same sex to perform the search.

Section 14 Search and seizure of goods

14.1 An officer may, without a warrant, search the vehicle, luggage or personal effects of any person who seeks entry into East Timor.

14.2 Persons crossing the borders of East Timor must make declarations or manifests of all goods being carried by the person available to an officer on request.

14.3 An officer may confiscate any goods which may pose a threat to the peace, security, health, environment, or good order of East Timor.

14.4 Goods which are not declared may be confiscated by an officer. Persons may also be ordered to return such goods, at their expense, to the jurisdiction from which they came.

Section 15 Offences

The following shall constitute an offence pursuant to the present regulation:

- (a) failure to appear before an officer for examination as required by Section 6 and Section 8.3 of the present regulation;
- (b) failure to answer truthfully all questions put to that person by an officer during examination;
- (c) failure to produce documentation as may be required by the officer during examination;
- (d) failure to make a declaration or manifest of all goods being carried by the person on request by an officer;
- (e) failure to cooperate with a search of the person or search of the person's vehicle, luggage or personal effects pursuant to Sections 12, 13 and 14 of the present regulation;
- (f) knowingly making a false representation by reason of which a person is induced to seek entry to East Timor or is assisted in any attempt to seek entry or by reason of which that person's entry is procured;
- (g) entering East Timor or remaining in East Timor without a permit, where a person requires a permit;
- (h) entering East Timor or remaining in East Timor by use of a false or improperly obtained passport, permit or other document pertaining to the entry of that person or by reason of any fraudulent or improper means or misrepresentation of any material fact;
- (i) breaching a prescribed term of a permit;
- (j) escaping or attempting to escape from lawful custody or detention under the present regulation and relevant directives;
- (k) organizing or facilitating the entry or proposed entry into East Timor of a person, knowing the person would, upon entering East Timor, be guilty of an offence under this Section.

Section 16
Penalties

A person who commits an offence described in Section 15 is liable to have any goods in their possession confiscated and may be deported from East Timor. The person may also be liable to a penalty prescribed in an applicable UNTAET regulation or directive.

Section 17
Liability for removal costs

17.1 A transportation company shall ensure that the persons it conveys to East Timor are in possession of all permits, passports and travel documents required by applicable law.

17.2 A transportation company conveying persons to East Timor shall, on the arrival of each one of its vehicles in East Timor, present each person to an officer for examination at such place as may be designated by an officer and shall not allow any person to leave the vehicle:

- (a) at any place other than that designated by an officer; or
- (b) until permission has been granted by an officer.

17.3 Where a person has been allowed or required to leave East Timor pursuant to the present regulation, a transportation company that has conveyed the person to East Timor may be required by an officer to cause that person to be conveyed to the country from which that person came, or to such other country as the officer may approve at the request of the company.

17.4 Where a person has been required to leave East Timor because at the time of the arrival in East Timor the person was not in possession of a valid permit, passport or travel document required by applicable law, a transportation company that has conveyed the person to East Timor shall be liable to pay all costs of conveying that person to the country from which that person came, or to such other country as an officer may approve at the request of the company.

17.5 Where a person has been granted entry to East Timor, or where that person, at the time of arrival in East Timor, was in possession of a valid permit, passport or travel document, and where that person is required to leave East Timor pursuant to the present regulation, a transportation company that has conveyed the person to East Timor and that is required to cause that person to be conveyed from East Timor is entitled to be reimbursed by the Controller for the costs of conveying that person from East Timor. However a transportation company shall not be reimbursed for the costs of conveying from East Timor a person who enters East Timor as, or to become, a member of a crew.

17.6 Where a person enters East Timor as, or to become, a member of a crew of a vehicle and ceases to be a visitor, the transportation company that operates that vehicle may be required to cause that person to be conveyed to the country from which that person came, or to such other country as the Controller may approve at the request of the company. The transportation company shall be liable to pay all costs of conveying that person from East Timor.

Section 18
Other offences

18.1 Where an officer has reasonable grounds to believe that a person who seeks entry to or exit from East Timor, or who seeks to remain in East Timor, is liable for an offence committed under applicable law in East Timor, other than an offence prescribed in the present regulation, the officer shall report immediately to the police, who may take such action as is deemed appropriate.

18.2 Where the circumstances of the case require, an officer may arrest a person suspected of having committed an offence other than an offence prescribed in the present regulation. The arrest must be immediately reported to the Controller and the arrested person must, as soon as possible but no later than six (6) hours after the arrest was made, be delivered into the custody of the police.

Section 19
Review

19.1 A person against whom an adverse decision has been made by an officer of the Border Service may apply in writing to the Controller for a review of the decision. Within seven (7) days of receipt of the application, the Controller shall review the decision and notify the applicant of the Controller's determination.

19.2 The determination of the Controller following review may be challenged in a court of competent jurisdiction in East Timor.

Section 20
Citizenship

Nothing in the present regulation confers or detracts from the rights of citizenship of any person.

Section 21
Definitions

In the present regulation,

- (a) 'goods' means any substance, organism, article, or thing, whether manufactured or natural, which may be moved across the borders of East Timor and which is not a human body, a cadaver or human remains;
- (b) 'member of a crew' means a person, including a master, who is employed on a vehicle to perform duties during a voyage or trip related to the operation of the vehicle or the provision of services to passengers;

- (c) 'officer of the Border Service' means the Border Service Controller or any person employed by the Border Service and exercising the authority of the Controller;
- (d) 'vehicle' means any conveyance that may be used for transportation by land, water or air.

Section 22
Entry into force

The present regulation shall enter into force on 25 February 2000.

Sergio Vieira de Mello
Transitional Administrator