



**REGULATION NO 2001/5 ON FIREARMS, AMMUNITION
EXPLOSIVES AND OTHER OFFENSIVE WEAPONS IN 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 No. 1999/1 of 27 November 1999 on the authority of the Transitional Administration in East Timor,

For the purpose of establishing a regime to ensure public safety and security by regulating the possession, import, export, manufacture, production, purchase, sale or disposition of firearms, ammunition or explosives,

After consultation with the National Council,

Promulgates the following:

Section 1
Definitions

For purposes of the present Regulation, the following terms shall have the following meanings:

Ammunition means any implement designed or intended for use in a firearm as a projectile or containing combustible material designed or intended to create an expansion of gases in a firearm to expel a projectile;

Commissioner means the Head of the UNTAET International Civilian Police Contingent (CIVPOL);

Dispose or *disposition* means the use or destruction of firearms, ammunition or explosives in accordance with applicable law, but does not include sale;

Explosive means any chemical compound or mechanical mixture containing any oxidizing and combustible components in such proportions, quantities or packing, that

ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion. Explosives include, by way of illustration and not limitation, gunpowder, powders used for blasting, dynamite, detonating fuses or agents, smokeless powder, grenades, mines or any explosive device. They do not include motor fuels unless incorporated into other mixtures for the purpose of causing an explosion;

Export means to remove or cause the removal of any object or thing from the territory of East Timor to any location outside the territory of East Timor;

Firearm means any device, whether or not assembled, operable or incomplete, which is designed or adapted or which may readily be converted to discharge a projectile by means of expansion of gases produced in the device by the ignition of combustible material, including traditional or handcrafted weapons such as "rakitan", and any accessory designed or intended for attachment to such a device;

Firearm imitation means any object which has the appearance of a firearm and which could be reasonably mistaken for a firearm;

Import means to move or cause the movement of any object or thing into the territory of East Timor from any location outside the territory of East Timor;

Offensive Weapon means any knife, machete, sword or other sharpened metal instrument that is capable of causing injury to persons;

Possess means to have physical dominion or control, directly or indirectly. Possession occurs when someone has a thing on or about his person, or within premises or vehicles over which he has custody, control or easy access;

Prohibited person means an individual

- (a) who has been convicted of any offense in any jurisdiction, the penalty for which is five years or more of imprisonment; or
- (b) who is serving a term of imprisonment in any jurisdiction; or
- (c) who has been convicted of any offense in any jurisdiction involving the use of a *firearm, ammunition or explosives*; or
- (d) who has been convicted of any offense in East Timor and sentenced to a penalty of less than 5 years and five years have not elapsed from the date of conviction; or release from a term of imprisonment whichever is later; or
- (e) who has been convicted of any offense defined in the present Regulation; or
- (f) any person who is under the age of 18 years; or
- (g) any person who is physically or mentally unfit.

Purchase or sale includes any type of transfer of ownership, regardless of whether it involves monetary compensation.

Section 2
Persons Exempt From Licensing

- 2.1 The following persons shall be exempt from the need to obtain a license to *possess, import, export or dispose of firearms, firearm imitations, ammunition or explosives* in East Timor:
- (a) All military, police and other personnel deployed under Security Council Resolutions 1272 and 1319, when acting in the course of their duties and in accord with their command policies and instructions.
 - (b) The East Timor Police and Defence Forces, when acting in the course of their duties and in accord with their command policies and instructions.
 - (c) Such other persons as may be authorized by UNTAET directives and regulations, when acting in the course of their duties and in accord with their command policies and instructions.

Section 3
Authority to Issue, Suspend and Revoke Licenses

- 3.1 The Cabinet Member for Police and Emergency Services shall be vested with the authority to grant, in exceptional circumstances, a license permitting the *import, export, possession, purchase, sale or other disposition of firearms, firearm imitations, ammunition, or explosives* by the licensee.
- 3.2 The *Commissioner* will exercise the above mentioned authority on behalf of the Cabinet Member and may issue the referred license, under such terms and conditions as shall be stated in the license; provided that the *Commissioner* is satisfied that:
- (a) the applicant is not a *prohibited person*; and
 - (b) the applicant has demonstrated that the activity to be licensed is in the public interest; and
 - (c) the applicant has demonstrated that the activity to be licensed will be conducted with due regard for safety; and
 - (d) the applicant has demonstrated that the activity to be licensed will not be accompanied by or lead to other activity which is prohibited by the present or other UNTAET Regulations or laws applying in the territory of East Timor; and
 - (e) no *firearm* subject to license shall be carried on or about the person of the licensee, either visibly or concealed, except in accordance with the terms of the licensed activity.
- 3.3 The *Commissioner* shall suspend or revoke any license previously issued whenever it appears to the *Commissioner*
- (a) that materially inaccurate or misleading information was provided in the application for the license; or

(b) that the licensee has violated or is likely to violate the terms of the license; or

(c) that one or more of the conditions of Section 3.2 of the present Regulation have ceased to apply.

3.4 The decisions of the *Commissioner* will be subject to appeal before the Cabinet Member for Police and Emergency Services or his delegate, who will be responsible for the final decision.

3.5 A person who is granted a license under this section shall surrender *the firearms, ammunition or explosives* once the licensed activity ends or the license is revoked, or expired and not renewed.

Section 4

Prohibition of Unauthorized Activity

4.1 Any person who, without authority under the present Regulation, *possesses, purchases or sells any firearm ammunition or explosive*, or attempts any of the foregoing, is guilty of a criminal offense and shall be punished by a fine not to exceed ten thousand U.S. dollars (USD 10,000), or a term of imprisonment not to exceed one year, or both.

4.2 Any person who, without authority under the present regulation, *imports, exports, produces or manufactures any firearm, firearm imitation, ammunition or explosive* or attempts any of the foregoing, is guilty of a criminal offense and shall be punished by a fine not to exceed fifty thousand U.S. dollars (USD 50,000), or a term of imprisonment not to exceed ten years, or both.

4.3 Any person who uses a *firearm, firearm imitation, ammunition or explosive* in the commission of a crime is guilty of a separate criminal offense and shall be punished by a fine not to exceed ten thousand U.S. dollars (USD 10,000), or a term of imprisonment not to exceed five years, or both.

4.4 Any person in *possession* of an *offensive weapon* in a public meeting or demonstration is guilty of a criminal offence and shall be punished by a fine not to exceed one hundred U.S. dollars (USD 100) or a term of imprisonment not to exceed seven days, or both.

4.5 Sole *possession* of a *firearm imitation* does not constitute a crime unless it is used in the commission of a crime.

4.6 Any person who is convicted of a second or subsequent offense under Subsection 4.1 or 4.2 of the present regulation shall, in addition to the punishments provided in Subsection 4.1 or 4.2, be punished by a fine not to exceed ten thousand U.S. dollars (USD 10,000), or a term of imprisonment not to exceed ten years, or both.

4.7 Any person who without lawful authority *imports* into East Timor any *firearm, ammunition or explosive* with the intent to disrupt public order, or who uses any *firearm, ammunition or explosive* in the disruption of public order is guilty of a criminal offence and shall be punished by a fine not to exceed fifty thousand U.S. dollars (USD 50,000) or a term of imprisonment not to exceed twenty years, or both.

- 4.8 The District Courts of East Timor have jurisdiction over cases prosecuted under this Section.

Section 5

Authority to Question, Search and Seize

- 5.1 A police officer may question any person found in *possession* of a *firearm*, *firearm imitation*, *ammunition* or *explosive* concerning the person's authority to possess the same, and may require the person to present any relevant license.
- 5.2 A police officer may search, without a warrant, the clothing or personal belongings of a person; or any part of a vehicle; or any part of a vessel at sea in a manner consistent with international law, if the officer reasonably believes that a *firearm*, *firearm imitation*, *ammunition*, *explosive*, or *offensive weapon*, under circumstances not authorized by the present Regulation, may be found.
- 5.3 A police officer shall seize, with or without a warrant, any *firearm*, *firearm imitation*, *ammunition*, *explosive* or *offensive weapon* found in the *possession* of any person who is not in compliance with this regulation or any subsequent UNTAET directives and regulations.
- 5.4 Officers of the Border Service for East Timor, and any other officers authorized by UNTAET Regulations to perform customs examinations, shall seize any *firearm*, *firearm imitation*, *ammunition* or *explosive* being *imported* or *exported*, whenever proper authority to import or export the same is not presented on request.

Section 6

Forfeiture of Seized Property

- 6.1 Property seized pursuant to Section 5 of the present Regulation shall be held in the possession of the seizing authority. Unless proper authority to possess the same shall have been established within thirty calendar days following its seizure, it shall be forfeited and become the property of the East Timor Transitional Administration. The burden of establishing proper authority is on the person asserting such authority.
- 6.2 Property forfeited pursuant to this Section shall be turned over to the *Commissioner*, unless otherwise ordered by a competent court in connection with ongoing criminal proceedings.
- 6.3 The *Commissioner* shall *dispose* of property forfeited pursuant to this Section in a manner to be specified in a Directive.

Section 7
Transitional Provision

- 7.1 Any person who is in *possession* of any *firearm, ammunition* or *explosive* to which Section 2 of the present regulation is not applicable, shall, within 30 days of the coming into force of this regulation, surrender such *firearm, ammunition* or *explosive* to the *Commissioner* or his designee. The person may thereafter submit an application for a license in accordance with Section 3 of the present regulation.
- 7.2 A person who complies with 7.1 shall not be prosecuted under Section 4 of this regulation.

Section 8
Entry Into Force

This Regulation shall enter into force on 23 April 2001.

Sergio Vieira de Mello
Transitional Administrator