

REGULATION NO. 2000/19

United Nations Transitional Administration in East Timor
Administration Transitoire des Nations Unies au Timor Oriental (UNTAET)

UNTAET/REG/2000/19

30 June 2000

REGULATION NO. 2000/19 ON PROTECTED PLACES

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 (hereinafter: UNTAET Regulation No. 1999/1),

After consultation in the National Consultative Council,

For the purpose of protecting designated areas, endangered species, coral reefs, wetlands, mangrove areas, historic, cultural and artistic sites, conservation of biodiversity and protection of the biological resources of East Timor,

Promulgates the following:

Section 1 Applicable Law

All laws which have effect in East Timor by virtue of Section 1 of (UNTAET) Regulation No. 1999/1 and which may provide greater protection of the natural environment of East Timor than the protections contained in this or any other regulation shall remain in effect.

Section 2 Protected Wild Areas

2.1 Under the present regulation "protected wild areas" shall mean areas of land constituting islands, beaches, mountains, sanctuaries, reserves and any other areas. For the purposes of the present regulation, the following areas of land shall be designated as protected wild areas as delineated in the attached Schedule:

- (a) the total land area of Jako Island together with surrounding rocks, reefs, and other surface and sub-surface features;
- (b) Tutuala Beach together with forest adjacent to the beach;
- (c) Cristo Rei Beach and the hinterland;
- (d) the summit of Tata Mailau Mountain, all elevations on Tata Mailau Mountain above 2,000 meters and the surrounding forest;
- (e) the summit of Sadoria Mountain, all elevations on Sadoria Mountain above 2,000 meters and the surrounding forest;
- (f) the summit of Malobu Mountain, all elevations on Malobu Mountain above 2,000 meters and the surrounding forest;
- (g) the summit of Mount Diatuto and the surrounding forests;

- (h) the summit of Mount Fantumasin and the surrounding forests;
- (i) the Riverlet Clere Sanctuary;
- (j) the Tilomar Reserve;
- (k) the Lore Reserve;
- (l) the Monte Mundo Perdido and the surrounding forest;
- (m) the summit of Monte Matebian and all elevations on Monte Matebian above 2,000 metres and the surrounding forest;
- (n) the Monte Cablaque and the surrounding forest; and
- (o) the Manucoco Reserve.

2.2 In addition to specified protected wild areas under section 2.1, the Transitional Administrator may designate in a directive other terrestrial or marine areas of exceptional importance:

- (a) for their scenic and natural qualities,
- (b) for their biological resources including rare or threatened animals and plants; or
- (c) as habitats of endangered species.

2.3 Protected wild areas shall be managed in order to maintain and enhance their wild and natural character and so as to preserve endemic animals and plants within the protected wild area. Subject to section 2.4 of the present regulation, within a protected wild area:

- (a) the erection of a temporary or permanent structure in any form,
- (b) the building of a road or other access place for vehicles and transportation,
- (c) the hunting, trapping, taking or disturbing of animals,
- (d) the taking or disturbing of plant life,
- (e) the use of a protected wild area for agricultural purposes and the grazing of animals, and
- (f) the pollution of a protected wild area, shall be prohibited.

2.4 Under the present regulation, the following activities conducted in accordance with local law and tradition by local communities living close to the areas, specified under section 2.1 may constitute permitted uses:

- (a) the harvesting of non-forest products;
- (b) the selective grazing of animals;
- (c) the use of non-endangered animals and plants for religious and cultural ceremonies;
- (d) the traditional hunting of non-endangered species;
- (e) the traditional cutting of trees at elevations below 2,000 meters in places other than Jako Island provided such cutting and transport of wood within the protected areas is done in a sustainable manner and without use of machinery; and
- (f) any other traditional purpose consistent with the intent of the present regulation.

2.5 Protected wild areas shall be managed in accordance with directives issued by the Transitional Administrator. The Transitional Administrator may issue further directives to limit or control access by persons and legal entities to wild protected areas.

Section 3

Endangered Species

3.1 For the purposes of the present regulation, "endangered species" shall mean a species of animal or plant at risk of extinction within East Timor. The following species of animal shall constitute endangered species within East Timor:

- (a) Sea tortoises;
- (b) Sea turtles;
- (c) Marine mammals, including bottlenose dolphins, whales and dugongs;
- (d) Wallabies;
- (e) Crocodiles;
- (f) All animal and plant species listed in Appendix I or Appendix II of the Convention on the International Trade in Endangered Species; and
- (g) Any other plant or animal species designated as endangered by the Transitional Administrator.

3.2 Endangered species and the habitats of endangered species shall be protected throughout the terrestrial and marine territory of East Timor. Under the present regulation:

- (a) the killing, injuring, harming, taking or disturbing of any endangered species;
- (b) the destruction in any way of the habitat of an endangered species;
- (c) the selling of an endangered species or the selling of any product made from an endangered species; and
- (d) the export of an endangered species or any product made from an endangered species, shall be prohibited.

3.3 A person or legal entity wishing to conduct scientific research by taking samples from an endangered species or its habitat shall apply to the Transitional Administrator for an exemption from the operation of section 3.2.

3.4 The form of an application for an exemption shall be prescribed by directive.

3.5 The granting of an exemption may be subject to conditions. No exemption shall be granted in respect of research that imperils the survival of an endangered species in East Timor.

Section 4

Coral Reefs

The coral reefs present in the waters of East Timor shall be protected. For the purposes of the present regulation:

- (a) the intentional killing, damaging, or destruction of coral or coral reef;
- (b) the use of explosives or poisons for fishing which results in the killing, damaging, or destroying of coral or coral reef;
- (c) the buying or selling of coral or products made from coral; and
- (d) the export of coral or products made from coral, shall be prohibited.

Section 5

Wetlands and Mangroves

5.1 Wetlands and mangrove areas shall be protected in East Timor. For the purposes of the present regulation:

- (a) the pollution,
- (b) the draining, or
- (c) the destruction, of a naturally existing wetlands and mangrove areas shall be prohibited.

5.2 For the purposes of the present regulation:

- (a) the cutting,
- (b) the damaging, or
- (c) the removing, of a mangrove, shall be prohibited.

Section 6

Historic, Cultural and Artistic Sites

6.1 Under a directive, the Transitional Administrator may designate monuments, buildings, and other sites as property of cultural, artistic or historic significance to the people of East Timor.

6.2 For the purposes of the present regulation, the damaging or destruction of the property or the removal of objects from a property as outlined under directive, shall be prohibited.

6.3 In order to preserve architectural, artistic, cultural, or historic features of a property, the Transitional Administrator shall issue directives on the management of places.

Section 7

Penalties

7.1 All civil and criminal penalties under current law for damaging the natural environment remain in effect.

7.2 A person who commits an offence as set out in Sections 2.3, 3.2, 4, 5 and 6 of the present Regulation shall, in addition to any other applicable civil and criminal penalties be liable:

- (a) to a penalty not exceeding US \$5,000, to be determined by the Transitional Administrator;
- (b) to removal of any animals, plants, coral or other animate or inanimate objects subject to the provisions of the present regulation; and
- (c) confiscation of any tools, equipment and vehicles used for committing the offence or for the transportation of animals, plants, coral or other animate or other inanimate objects subject to prohibition under the present Regulation.

7.3 A legal entity, other than a business registered pursuant to UNTAET Regulation No. 2000/4, which commits an offence as set out in Sections 2.3, 3.2, 4, 5 and 6 of the present Regulation shall be liable, in addition to any other applicable civil and criminal penalties:

- (a) to a penalty not exceeding US \$500,000, to be determined by the Transitional Administrator;
- (b) to removal of any animals, plants, coral or other animate or inanimate objects subject to the provisions of the present regulation; and
- (c) confiscation of any tools, equipment and vehicles used for committing the offence or for the transportation of animals, plants, coral or other animate or other inanimate objects subject to prohibition under the present Regulation.

7.4 A business registered pursuant to UNTAET Regulation No. 2000/4, which commits an offence as set out in Sections 2.3, 3.2, 4, 5 and 6 of the present Regulation shall be liable, in addition to any other applicable civil and criminal penalties:

- (a) to a penalty not exceeding US \$500,000, to be determined by the Transitional Administrator;
- (b) the cancellation of the registration of that business;
- (c) to removal of any animals, plants, coral or other animate or inanimate objects subject to the provisions of the present regulation; and

- (d) confiscation of any tools, equipment and vehicles used for committing the offence or for the transportation of animals, plants, coral or other animate or other inanimate objects subject to prohibition under the present Regulation.

7.5 A person who, or legal entity which, commits an offence as set out in section 3.2 of the present regulation shall also be subject to the cancellation of the exemption granted pursuant to section 3 of the present Regulation.

7.6 A financial penalty imposed by the present Section shall accrue to the East Timor Consolidated Budget, as provided for under UNTAET Regulation No. 2000/1.

7.7 For the purposes of the present regulation, the Transitional Administrator may authorise:

- (a) the power of investigation to designated parties in respect of offences purported to be committed;
- (b) the power of designated parties to serve notices in respect of offences committed;
- (c) the legal procedure to be followed where a notice as specified under section 7.7 (b) is served.

In the absence of specific provisions detailing the powers of investigation and the authority of designated parties, section 1 of the present regulation shall apply.

Section 8

Review

8.1 A person against whom, or a legal entity against which, a decision has been made pursuant to the present Regulation may apply in writing to the Deputy Transitional Administrator for a review of that decision.

8.2 An application for review pursuant to Section 8.1 of the present Regulation shall only be considered if it is made within thirty (30) days of the date of the contested decision.

8.3 The Deputy Transitional Administrator shall, within thirty (30) days of the date of an application submitted in accordance with this Section, either uphold or overturn the original decision, and shall notify, in writing, the person or legal entity of the reasons for doing so.

8.4 Pending the establishment of adequate judicial procedures for administrative matters, a person or legal entity may challenge a decision of the Deputy Transitional Administrator to uphold the original decision adverse to their interests with the competent judicial authorities in East Timor.

8.5 In any court proceeding arising out of or in connection with the present regulation against UNTAET or a servant of UNTAET, the court shall apply the same substantive norms as would be applicable under the procedures for administrative matters.

Section 9

Definitions

Wherever used in the present regulation, the following terms shall have the following meanings:

- (a) "Coral reef" means areas of coral and coral species within the territorial waters of East Timor;
- (b) "Wetlands" means, areas which may be seasonally or permanently inundated by water and supports a range of flora and fauna which is representative of a wetland ecosystem;
- (c) "Mangrove areas" means, an area within the intertidal zone of the coastal region recognised by a range of tropical mangrove plant species; and

(d) "Pollution" means, the entry or the entering into of living creatures, substances, energy, and/or other components into the environment by human activities with the result that its quality decreases to a certain level which causes the environment not to be able to function in accordance with its allocation.

Section 10

Entry into force

The present regulation shall enter into force on 1 July 2000.