

TIMOR-LESTE DESK

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EDITORIAL

With this edition of Aware we aim to communicate the increasing (both in volume and quality) legislative output in the Democratic Republic of Timor-Leste, during the first quarter of this year.

In addition to the approval of the State Budget, the effort undertaken by the national authorities to establish a clear, transparent and efficient legal framework on matters of public spending, has been noteworthy – in this context we point out National Parliament Resolution n.º 01/2013 dated 16 January, a resolution compelling government to report to the competent entities, findings of possible financial and criminal breaches on budgetary implementation matters, and also Ruling 1/2013 dated 21 January, 2013 of the court of Appeals (the supreme judicial body) which has come to clarify and establish concrete rules regarding the applicable regime for preliminary audits.

In the light of the relevance and topicality of the subject of administrative decentralization, a priority for the V Constitutional Government, in line with the principle of decentralized administration established in article 5. n.º1 of the Constitution, in the near future, Abreu e C&C Advogados – Timor-Leste will explore this subject in a supplementary edition to this aware.

It is with great and unequivocal pleasure that we witness the legislative and democratic maturing of Timor-Leste and share it with our clients and partners.

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STATE BUDGET FOR 2013

National Parliament unanimously approved the General State Budget (GSB) for 2013 under Law n.º 02/2013 of 1 March.

It is important to highlight that the 2013 GSB presents a decrease of 26,581, 000.00 US\$ of a total projected expenditure of 36,781,000.00 US\$ in the fiscal deficit estimate.

However, the most significant decrease is in regards to financing through the Petroleum Fund, which in 2012 was 1,494,900,000.00 US\$ and this year is 787,000,000.00 US\$.

This decrease of almost 50% can be explained by the transfer of the balance from the Special Funds (Infrastructure Funds and Human Capital Development Fund) and from the Treasury Account.

The maximum threshold for public debt has gone from 43.1 million US\$ to 43.6 million US\$.

With the exception of services and independent funds and loans, total 2013 budgetary appropriations are of 877.547 million US\$, in comparison with 723.4 million US\$ in 2012, being that in the Salaries and Wages, Public Transfers and Minor Capital Development line-items, only the latter evidences a decrease of almost 200 million US\$ dollars with the remaining line-items increasing by approximately 10%.

In terms of revenue, the current GSB outlook is of 2,987.8 million US\$ in comparison with 2,269.4 million US\$ in 2012, being that this increase is based almost exclusively on the growth in oil revenues, with emphasis on the Timor Sea Rights (from 150.8 to 318.4 million North American dollars) and the Petroleum Fund Interest which has gone from 324.3 million US\$ to 488.8 million US\$.

Despite the increase of approximately 10 million US\$ in non-petroleum revenue, the proportion of petroleum revenue continues to grow, from approximately 94.1% in 2012 to approximately 95% of projected totals.

Finally, it should be pointed out that despite the modest increase in non-petroleum revenues, and consequently the continued dependency of Timor-Leste on natural resources, efficient management by the Government has allowed for the first decrease in Petroleum Fund transfers in the 2013 GSB and a deficit reduction. However, the need to diversify revenue sources continues to be very present.



COURT OF APPEALS – RULING 1/2013 DATED 21 JANUARY, 2013 (Instructions on preliminary audit procedures)

Pursuant to Law n.º 9/2011, dated August 17 (which regulates the organic structure of the Chamber of Auditors of the Administrative and Fiscal High Court), the judges of the Court of Appeals ruled in plenary to approve Instructions on preliminary audit procedures.

Such Instructions in force as of 24 January, 2013 sanction and effect the preliminary audit procedure provided for by law, reinforcing a clear, coherent and efficient framework of control on public spending.

In addition to the formal requirements at a documentation and presentation level, to be followed by the entities subject to such control, we would like to highlight article 7. n.º 1 which, in respect to deferred and multi-annual budgetary expenses, meaning processes for which expenses are initiated in more than one economic year, or not initiated in the same year as the year of completion, including expenses that cause an increase of substantiated public debt, a statement of compromise will be required to the effect that in the Budget proposal or proposals impacted, funds for the corresponding expenses are earmarked.

This provision, presented as a guaranty of “temporal” and prudent use of public resources, to free future generations from such charges, does nevertheless raise the issues of how it will be applied by the Court in cases where expenses are deferred for several years. For example, Public-Private Partnerships (PPP) in which the public entity is not in a position to assume allocations towards future Budgets, other than contractually.

This ruling is lacking in regards to time limits for decisions (article 18), but does, however, provide for the return of the original copies of the required documents and basis for the ruling, including a copy of the respective Verdict if the Process is presented to plenary.

MINISTRY OF STATE ADMINISTRATION (Secretary of State for Administrative Decentralization)

Protocols entered into between Portuguese Municipalities and the Democratic Republic of Timor-Leste.

On 21 March, 2013 the following Protocols and Agreements were entered into by His Excellency the Secretary of State for Administrative Decentralization, in representation of the Government:

- 1.** Amendment to the Agreement between the National Association of Portuguese Municipalities, the Local Authorities Forum of the Community of Portuguese Language Countries and the Government of the Democratic Republic of Timor-Leste;
- 2.** Cooperation Protocol between the Government of the Democratic Republic of Timor-Leste and the Foundation for Studies and Training on Municipalities - CEFA Foundation (Portugal);
- 3.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Abrantes (Portugal) for assistance in the implementation of the Municipality of Bobonaro;
- 4.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Ourém (Portugal) for assistance in the implementation of the Municipality of Oecusse;
- 5.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Paredes (Portugal) for assistance in the implementation of the Municipality of Baucau;
- 6.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Rio Maior (Portugal) for assistance in the implementation of the Municipality of Bobonaro;
- 7.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Tondela (Portugal) for assistance in the implementation of the Municipality of Covalima;
- 8.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Vila Franca de Xira (Portugal) for assistance in the implementation of the Municipality of Ermera;
- 9.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Vila Velha de Ródão (Portugal) for assistance in the implementation of the Municipality of Liquiça;
- 10.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Oleiros (Portugal) for assistance in the implementation of the Municipality of Ainaro;
- 11.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Município de Murça (Portugal) for assistance in the implementation of the Municipality of Oecusse;
- 12.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Melgaço (Portugal) for assistance in the implementation of the Municipality of Viqueque;
- 13.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Lamego (Portugal) for assistance in the implementation of the Municipality of Aileu;
- 14.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Lagoa (Portugal) for assistance in the implementation of the Municipality of Lautém;
- 15.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Ílhavo (Portugal) for assistance in the implementation of the Municipality of Manufahi;
- 16.** Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Guarda (Portugal) for assistance in the implementation of the Municipality of Ermera;

MINISTRY OF STATE ADMINISTRATION (Secretary of State for Administrative Decentralization)

17. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Funchal (Portugal) for assistance in the implementation of the Municipality of Díli;

18. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Grândola (Portugal) for assistance in the implementation of the Municipality of Lautém;

19. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Figueira da Foz (Portugal) for assistance in the implementation of the Municipality of Manufahi;

20. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Figueira de Castelo Rodrigo (Portugal) for assistance in the implementation of the Municipality of Manatuto;

21. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Castelo Branco (Portugal) for assistance in the implementation of the Municipality of Ainaro;

22. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Campo Maior (Portugal) for assistance in the implementation of the Municipality of Ermera;

23. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Bragança (Portugal) for assistance in the implementation of the Municipality of Aileu;

24. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Cascais (Portugal) for assistance in the implementation of the Municipality of Viqueque;

25. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Município de Torres Novas (Portugal) for assistance in the implementation of the Municipality of Manatuto;

26. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Boticas (Portugal) for assistance in the implementation of the Municipality of Liquiça;

27. Cooperation Agreement between the State Secretary for Administrative Decentralization and the Municipality of Lisboa (Portugal) for assistance in the implementation of the Municipality of Dili.



LEGAL NEWS

Decree-Law 47/2012 dated 5 December approving the Organic Structure of the Ministry for Social Solidarity.

Decree-Law 48/2012 5 December Approving the Organic Structure of the Ministry for Public Works.

National Parliament Resolution n.º 01/2013 dated 16 January – Compels Government to Report to the Competent Entities, Findings of Possible Financial and Criminal breach on Budgetary Implementation Matters.

National Parliament Resolution n.º 02/2013 dated 16 January – Approving the 2011.State General Account.

Decree-Law 01/2013 dated 23 January approving the Organic Structure of the Ministry of Commerce, Industry and Environment.

Court of Appeals – Ruling 1/2013 dated 21 January, 2013 (Instructions regarding preliminary audits procedures).

National Parliament Resolution n.º 3/2013 dated 23 January – Acknowledgement of the Relevance and Importance of the United Nations Intervention in Guinea-Bissau.

Ministry of Commerce, Industry and Environment – Ministerial Order n.º 01/2013 dated 23 January – On the Involvement of Public Supply of Rice and Standardization of Prices.

Law no. 01/2013 dated 13 February – Second amendment to Law n.º 11/2008 dated 30 July (Legal Framework on Legal Private Practice and Training for Lawyers).

Ministry of Commerce, Industry and Environment – Ministerial Order n.º 02/2013 dated 27 February, on the Involvement of Public Supply of Rice in Oecussi.

Government Resolution 08/2013 dated 27 February – On the Rules of the Council of Ministers.

Law n.º 02/2013 dated 1 March – General State Budget for 2013.

Decree-Law n.º 02/2013 dated 6 March approving the Organic Structure of the Ministry of Justice.

Decree-Law n.º 03/2013 dated 6 6 March approving the Organic Structure of the Health Ministry.

Ministry for State Administration (Secretary of State for Administrative Decentralization) Protocols entered into by Portuguese Municipalities and the Democratic Republic of Timor-Leste.

Presidential Decree n.º 10/2013 dated 11 April 2013 – appoints Dr. José da Costa Ximenes for the position of Attorney General of the Republic.

Court of Appeal: Rule n.º 2/2013, dated 14 March 2013 – approval of the Three- Year Plan for 2013-2015 and the 2013 Action Plan).

This *Aware* is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects that are referred. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions. For more information please contact us at timor.lete@abreuvadogados.com or ccadvoga@ccadvog.com

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