



TradInvest Timor-Leste

Agência de Promoção de Investimento e Exportação, I.P.

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### Explanatory note for publication

The importance of the promotion and development of the private sector of the economy in Timor-Leste is an emerging mandate from article 140.º of the Constitution of the Republic, in which it is foreseen the duty by the State concerning the promotion of the national investments and the creation of the conditions as to motivate foreign investments, pursuant national interests.

In this sense, 3 legal instruments are applicable, namely Law 15/2017 of 23<sup>rd</sup> august (Private Investment Law), Decree-law 45/20165 of 30 december, diploma which decrees the creation of TradInvest Timor-Leste, I.P., and the Government's Decree 2/2018, 21<sup>st</sup> February, which approves the Regulation of the Private Investment.

The Private Investment Law applies to any investment or reinvestment, **as long as these activities are permitted by law, and are not expressly reserved too the property or exclusive exploitation by the State.** In fact, **article 9.º of the Private Investment Law** states that *"The realization of investment or reinvestment in Timor-Leste in any economical activity, as long as permitted by law, is free and does not require any previous authorization beyond the foreseen proceedings on applicable legislation."* The number 2 of that article also refers that *"Excluded from the previous number are the economical activity that are expressly reserved to the exclusive property or exploitation by the State."*

Likewise, the n.º 3 of article 9.º of the Private Investment Law enshrines the obligation on TradInvest in the following terms: *"It is an obligation of the responsible entity for the promotion, facilitation and monitoring of the private investment and exportation to elaborate, pursuant applicable legislation, the list of activities and sectors which cannot be exerted by national investors, by foreign investors and which cannot be object of the incentives foreseen on the law herewith."*



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As such, the obligation to prepare the negative list falls upon TradInvest Timor-Leste. This list does not, however, have legislative, regulatory or innovative nature, and this list **should catalogue the activities which are not to be exerted by private investors nor be object of benefits.**

Thus, TradInvest Timor-Leste must only do an analysis within the legal frame of Timor, catalogue the activities and sectors which, in accordance with the law cannot be object of investment or reinvestment, and not identify activities which exercise should “ideally be forbidden to private investors”.

A final brief note to the following: TradInvest Timor-Leste has recently updated the existent investment list due to legislative alterations. As such, the following updates should be considered by foreign investors:

1. The commercialization of weapons and ammunition is not forbidden in Timor-Leste to any investor, whether national or foreigner, as long as an administrative license/authorization is obtained pursuant the Decree-law 30/2014 of 29 of October.
2. Holding shares of a commercial aviation company by a foreign investor is now unlimited, as these limits were removed from the most recent version of the Migration Law.
3. The activity of book edition is no longer forbidden to foreign investors, as this prohibition was removed from the most recent Migration Law as well.



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**NEGATIVE LIST OF ACTIVITIES AND SECTORS EXCLUDED FROM PRIVATE  
INVESTMENT**

Private investment in Timor-Leste is regulated by the Private Investment Law (Law 15/2017 of 23<sup>rd</sup> August), which approves the minimum values of investment so that the investor can obtain tax benefits and others, defines the procedure for their obtention, and determines that it competes to TradInvest Timor-Leste, I.P. to create the Negative List of Activities, which sums up the actual applicable legal limitations and prohibitions to private investment within national territory.

Hence, within the terms and the effects of paragraph n.º 3 of article 9.º of the Private Investment Law n.º 15/2017 of 23<sup>rd</sup> August, Investment and Export Promotion Agency – TRADEINVEST TIMOR-LESTE publishes hereby the following:

1.1. Forbidden Investment Activities.

N.º	Sector	Type of activity/Remissions
1	Criminal activities	Art. 9.º/1 of Law 15/2017, 23 August
2	Activities related to environmental protection areas	Art. 1.º/c) of Decree-Law 26/2012, 4 July, arts. 33.º and 34.º of Decree-Law 5/2016, 16 March.
3	Activities related to offenses of traditional customs	Art. 4.º, Government-Decree 6/2005, 27 July
4	Postal and courier services	Art. 7.º, Decree-Law 17/2004
5	Activities related to funeral services	Art. 2.º, 4.º, 5.º, 20.º of Decree-Law 21/2009

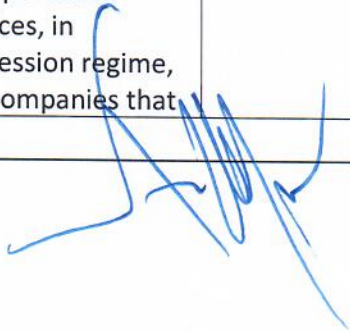
1.2. Activities of Investment with the possibility of a participation that limits quota/shares to Foreign Investors.



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N.º	Sector	Type of Activity	Legal Framing
1	Activities related to public communication services and other media services.	Foreign Investment Capital is limited to the maximum amount of 30% of share capital of the communication and media entity.	Social Communication Law, 5/2004, art. 24.º (foreign capital)
2	Urban and suburban passenger land transport activities and other passenger land transport activities.	This type of activity must be bestowed to companies that belong: to a national or; a company with more than 50% of national citizen's control, and constituted and regulated in accordance with Timorese law; or – people who benefit from the right of equaling to Timorese nationals, pursuant to conventions or international rules binding to the Timor State.	Decree-Law 2/2003, 10 March, Chapter II, Subsection 15 (access to the transportation business)
3	Air transport activities.	The Law foresees that, except in cases where the operator company provide public aerial transportation services, in concession regime, the companies that	Art. 7.º, Decree-Law 5/2006, 1 March

  
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		<p>ought to apply for a certificate of aerial operator in Timor should possess a share capital of min.:</p> <p>US\$3000000,00 (three million American dollars) for the exercise of the aerial commercial transportation services by airplanes out of the nation public transportation service;</p> <p>1500000,00 (one million five hundred thousand American dollars) for the exercise of the activity of transportation by helicopter out of the public aerial transportation service.</p>	
4	Gambling and other recreational activities.	<p>Can be authorized and licensed for the exploitation of social gambling and recreative and traditional games, as long as have been lawfully constituted and are located in Timor-Leste, natural person or legal</p>	<p>Art. 10.º and 17.º of Decree-Law 6/2016, 25 May</p>

  
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		<p>person, with lucrative aim, that make proof of being suitable and also to have technical capacity, economic and financial for the exercise of the activity.</p> <p>The right to explore social and recreative gambling, including lotteries, is reserved to the State and can only be undertaken by companies constituted under the form of a society to which the government has bestowed the respective concession through the celebration of a public administrative contract.</p>	
5	Insurance activity.	<p>Activity limited only to a minimum capital of investment as well as to special licensing and remaining requisites foreseen by law.</p>	<p>Art. 9.º, 40.º, 41.º of Law 6/2005, 6 July</p>

*[Handwritten signature and date]*  
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