



DEMOCRATIC REPUBLIC OF TIMOR-LESTE

DECREE LAW NO 26/2012 OF 4 JULY 2012

ENVIRONMENT BASIC LAW

[ENVIRONMENTAL FRAMEWORK LAW]

Explanatory Memorandum

Bearing in mind that the need to conserve and protect the environment is a duty incumbent upon all States, the 4th Constitutional Government recognises the importance of creating an environmental legal system setting out the principles and rules governing environmental conservation and protection, the sustainable use of natural resources and environmental management from an overall and integrated perspective which protects the fundamental rights of the citizens of Timor-Leste.

In an expanding free market economy, the environment and natural resources represent an important source of wealth and the basis for economic growth and the survival of communities. However, both require balanced and sustainable management so that citizens can be afforded a higher and better quality of life within a framework of sustainable development.

The right to a clean and healthy environment is a universally recognised human right and, as such, the constitution of the Democratic Republic of Timor-Leste regards environmental protection from a dual perspective: as a core responsibility of the State and also as a fundamental right of all citizens.

Therefore, Article 6 of the Constitution of the Republic establishes that one of the key objectives of the State is to protect the environment and preserve natural resources. Article 61, which reiterates this objective and specifies that the state shall undertake to defend and safeguard the environment, recognises, furthermore, the right of all citizens to a humane, healthy and ecologically-balanced environment while also specifying the duty of everyone to preserve and protect the environment for the benefit of future generations. Likewise, Article 139 emphasizes the need for exploitation of natural resources be made in order to maintain ecological balance and prevent destruction of ecosystems.

At the international level, Timor-Leste has already ratified a series of international conventions, such as the United Nations Framework Convention on Climate Change and the Kyoto Protocol, the International Convention to Combat Desertification, the Convention on Biological Diversity and the Vienna Convention for the Protection of the Ozone Layer and respective Montreal Protocol. It is therefore recognized that the State has a responsibility to implement the commitments stemming from these international instruments.

The approval of the Environmental Basic Law therefore sets out the necessary legal framework to satisfy the constitutional imperative to protect both the environment and the international responsibilities assumed by the State.

Consultations were held with representatives of national and international environmental associations, national and international advisers and experts, relevant ministries, and various civil service employees and department heads, not to mention the process of regional public consultations held in conjunction.

Thus,

In the legislative authorization granted under Article 1. 0 and 2. Of Law no. 3/2012, January 13, 2012 and pursuant to the provisions of Article 96 of the Constitution, the Government decrees, become law, the following:

CHAPTER I General Provisions

Article 1 Definitions

For the purposes of interpreting and applying the present law, the following definitions have been adopted for the words and concepts used in the body of the text:

- a) Activity: any publicly or privately initiated action related to the exploitation or use of environmental components, application of technologies or productive processes, policies, legislative or regulatory acts, and plans or programmes that affect or may affect the environment.
- b) Environment: the set of physical, chemical and biological systems and their relations with economic, social and cultural factors, with direct or indirect, intermediate or immediate, effects on living beings and the quality of human life.
- c) Protected area: an area is specifically defined land, freshwater or sea dedicated to the protection and maintenance of biological diversity, ecosystem services and associated cultural resources, managed through legal or other effective means;
- d) Strategic environmental assessment: the preventative instrument of environmental policy, based on studies, consultations and environmental management and assessment instruments, whose goal is to aid decision making on the environmental viability and implementation of certain projects.
- e) Biodiversity: the diversity of living organisms of all origins, including, among others, those from land, marine and other aquatic ecosystems, as well as the complex ecologies to which they belong, comprising the diversity of ecosystems and the diversity within and between species.
- f) Environmental components: the various elements of the environment, including the air, water, soil, subsoil, living creatures, renewable and non-renewable natural resources and socio-economic conditions, whose interaction ensures their balance.
- g) Degradation or environmental damage: is the adverse change in the environmental conditions and includes, among others, pollution, desertification, erosion, deforestation, loss of biodiversity, reduction of species and reducing the quantity and quality of natural ecosystems and groundwater;
- h) Sustainable development: development based on effective environmental management which satisfies the needs of the present generation without compromising environmental balance and the possibility of future generations also satisfying their necessities .
- i) Ecosystem: a complex dynamic of plant, animal and micro-organism communities and their interaction with the non-living environment to create a functional unit.
- j) Erosion: the detachment of the surface layer of the soil by the natural action of the wind and water which can be exacerbated due to man's removal of vegetation.
- k) Environmental management: the planned, coordinated and targeted process for taking and implementing decisions to regulate man's interaction with the natural environment in order to ensure the sustainable use of environmental components, due protection of threatened or endangered species and their habitats and the sustainable development of the economy.
- l) Habitat: any place or location which provides the climatic, physical and feeding conditions for the reproduction and development of organisms and their populations.
- m) Vulnerable groups: including women, youth, people with disabilities, displaced, ethnic and religious minorities and people living on subsistence agriculture and fishing;

- n) Habitat: any place or location in which organisms or population naturally are able to shelter, food and breeding;
- o) Environmental impact: set of positive and negative changes in the environment, within social and environmental parameters, comprising people and their economic and social structures, air, water, fauna, flora or their habitats, in a certain period of time and area, resulting from the implementation of a project, compared with the situation in this period and place if the project had not been implemented.
- p) Land use planning: the integrated process of organising the biophysical sphere so as to use and transform the land to match its capacities, vocation and the continuance of the values of biological balance and geological stability from the perspective of maintaining and increasing its ability to support life.
- q) Environmental emissions standards: the set of rules setting out the maximum amount of a certain pollutant that may be discharged from a single fixed or moving source.
- r) Environmental quality standards: the rules setting out the maximum admissible levels of pollutant concentrations allowed for environmental components.
- s) Pollution: the direct or indirect introduction of substances, vibrations, light, heat or noise into environmental components due to human activity liable to harm human health or environmental quality, cause deterioration or damage to material assets, or compromise or affect the use and enjoyment and other legitimate uses of the environment.
- t) Genetic resources: includes any material of plant, animal or micro-organism origin or other origin which contains functional units of heredity of actual or potential value.
- u) Natural resources: includes all living and non-living components that comprise the ecosystem.
- v) Non-renewable natural resources: includes all living and non-living components that comprise the ecosystem that are finite in character and cannot regenerate on a relevant timescale in human terms.
- w) Repair, rehabilitation and/or restoration of environmental degradation or damage: includes any activity which re-establishes the environmental conditions existing prior to the verification of degradation or damage to the environmental components.
- x) Waste: includes any effluent, substance and/or material object deemed to be of no use, superfluous and/or of no value created through human, industrial or commercial activity and which needs to be eliminated or destroyed.
- y) Hazardous waste: waste which due to its inflammable, explosive, corrosive, toxic, infectious, radioactive, or other quality is dangerous to human health or the environment.
- z) Environmental services: are ecosystem functions that create and provide benefits to humans and the ecosystems themselves, including kidnapping, storage and processing of greenhouse gases, the generation, filtering and water protection, biodiversity protection and the natural beauty
- aa) Polluting substances: any gas or waste, including those of a dangerous kind, that may alter the natural characteristics or qualities of the environment either temporarily or irreversibly, interfere in its normal conservation or evolution or have any other harmful effect.
- bb) Tara Bandu: an integral custom of Timor-Leste culture which regulates man's relationship with his surrounding environment.
- cc) Sustainable use: the use of environmental components in a harmonious and efficient way to satisfy the needs of the current generation without compromising environmental balance and the possibility of future generations satisfying their necessities.

Article 2

Purpose

The present law sets out the framework for environmental policy and the guiding principles for the conservation and protection of the environment and for the preservation and sustainable use of natural resources in order to promote the quality of life of the country's citizens.

Article 3

Scope

1. The present law and other environmental legislation are applicable to the whole of the national territory of Timor-Leste, namely the land surface, inland waters, territorial sea, air space above the territorial sea, as well as its bed and sub soil, and the Exclusive Economic Zone (EEZ).
2. The present law applies to national, international or stateless persons, whether natural or legal, who are, live or work in Timor-Leste, including public bodies.

Article 4

Aims

It is incumbent upon the state in ensuring a healthy and ecologically balanced environment that affords health and well-being to its people and in preserving and ensuring the sustainable use of natural resources to set out and implement an environmental policy, legislation, programmes, plans and projects whose aims are the following:

- a) To reduce environmental pressures at each stage of the life-cycle of natural resources, decouple the use of these resources from economic growth and increase efficiency, safeguarding the capacity for renewal and good environmental status and respecting the principle of inter-generational solidarity, ensuring correct land use planning and the protection of the landscape;
- b) To improve the environmental performance of public and private bodies including the strengthening of institutional structures required for the implementation of this law and the development of coordination and cooperation between public and private entities;
- c) To ensure the existence and effectiveness of environmental assessment mechanisms for policies, plans, programmes, projects and decisions liable to have significant effects on the environment;
- d) The creation of knowledge and awareness among the population about the importance and value of biodiversity, environmental components and the need for sustainable use.

Article 5

Guiding principles

The setting out and implementation of the environmental policy, the present law and other environmental legislation, programmes, plans and projects shall comply with the following guiding principles:

- a) Sovereignty principle: within the limits of its jurisdiction, the Democratic Republic of Timor-Leste has sovereignty over the use of its natural resources and the responsibility to ensure that activities under its jurisdiction or control do not harm the environment of other countries or areas located outside the limits of its jurisdiction.
- b) Principle of inter-generational solidarity: the environment shall be protected and improved for the benefit of current and future generations.
- c) Prevention principle: programmes, plans or projects that impact on the environment shall anticipate, prevent, reduce or eliminate the causes leading to rectification of the effects that are liable to alter the quality of the environment.
- d) Precautionary principle: the absence of absolute scientific certainty concerning the existence of a risk of serious or irreversible damage to the environment shall not be used as a motive for delaying the adoption of effective measures to prevent or minimize alterations in environmental quality.
- e) Participatory principle: the different social groups shall be engaged in the environmental decision-making processes and in the formulation and implementation of environmental policy and legislation, both via the collective organs in which they are represented and through public consultation on specific projects that interfere with their interests or the environmental balance;
- f) Polluter pays principle: the cost of measures to prevent, combat, reduce and compensate activities that can have a negative impact on the state of the environment shall be borne by the polluter;
- g) International cooperation principle: establishes the search for coordinated solutions with other states, international organisations, non-governmental bodies and the private sector for cross-border environmental problems and the preservation and use of national or cross-border natural resources and for compliance with the aims of regularly ratified international conventions or agreements;
- h) Integration principle: environmental policy must be integrated into other sectoral policies so that in its design and implementation, are taken into account the requirements of conservation and environmental protection, preservation and sustainable use of natural resources.

- i) Principle of seeking the most appropriate level of action: it implies that the implementation of environmental policy measures take into account the most appropriate level of action, be it international, national, regional, local or sectoral.

Article 6

Rights of national citizens

1. All citizens are entitled to participate in the conservation and protection of the environment, either in an individual capacity or through an association.
2. By law, all citizens are entitled to access environmental information without prejudice to the rights of legally protected third parties.
3. Everyone is guaranteed the right of access to participation in procedures for environmental decision-making that have significant environmental effects.
4. All citizens are entitled to environmental education with a view to ensuring their effective participation in conserving and protecting the environment.
5. Any citizen who deems that the terms of the present law or any environmental legislation or regulation has been infringed or is at risk of being infringed is entitled to petition the courts, under the general terms of the law, to stop the causes of the said infringement and to secure the respective compensation, irrespective of having suffered or eventually suffering any damages or having a personal interest in the matter.
6. The rights provided for in this article shall also apply to legal persons after due adaptation.
7. The State must ensure the implementation of rights under the law especially for vulnerable groups.

Article 7

Duties of national citizens

1. All citizens are obliged to conserve, protect and improve the environment and to ensure the preservation and sustainable use of natural resources for present and future generations.
2. All citizens are obliged to participate in environmental decision-making mechanisms and processes.
3. All citizens are obliged to conserve, protect and improve the quality of the air, water, sea, soil and subsoil and biodiversity in order to foster sustainable development and a better quality of life.
4. All citizens who have knowledge of activities, actions or omissions that constitute a threat to the environment and infringements to the present law or any environmental protection legislation or rule must inform the competent legal authorities.
5. The duties provided for in the present Article apply to legal persons after due adaptation.

Article 8

Tara Bandu

1. The State recognises the importance of *Tara Bandu* as an integral custom of Timor-Leste culture and as a traditional mechanism for regulating the relationship between man and his environment.
2. *Tara Bandu* may be applied in accordance with the rituals instituted by local common law which are intended to conserve and promote the environment and the sustainable preservation and use of natural resources, as long as it is compatible with the aims and principles established herein.
3. If *Tara Bandu* is applied, under the present Article, the State shall ensure the area in question is effectively protected.

CHAPTER II Governing Bodies

Article 9

State body

The state body responsible for the environment shall, under the integration principle, establish a central institutional structure responsible for coordinating policies, programmes, plans and projects that have significant effects on the environment with other central, district or local public bodies.

Article 10
Collaboration

1. Public bodies which through the exercise of their duties develop legislation, programmes, plans or projects that may have significant effects on the environment shall take the provisions of the present law into account.
2. The public bodies provided for in the preceding paragraph are obliged to collaborate and cooperate with the state body responsible for the environment with respect to implementing environmental policy so as to ensure it is applied in a cohesive and uniform manner.
3. The state body responsible for environmental matters shall promote the coordination and planning of public development policies at the central, district and local levels in order to ensure that they are compatible with environmental policy.

Article 11
Community authorities

1. Subject to the preceding article, the State shall encourage community authorities to participate in environmental conservation and protection and the preservation and sustainable use of natural resources and to engage in decision-making and environmental activities.
2. The competences of the community authorities referred to in the preceding paragraph are set out in separate legislation.

Article 12
Local communities

1. The State recognises the importance of local community participation, either acting alone or in conjunction with non-governmental organisations, in defining, implementing and monitoring environmental policy and in environmental decision-making.
2. Local community participation referred to above is pursued through public consultation, in accordance with the law.
3. Subject to the preceding paragraph, the State shall create the necessary structures and channels of communication for the participation of local communities in environmental decision-making processes, for the sharing and exchanging of information on setting out and implementing environmental policy and legislation and for the monitoring of activities with environmental impact.

CHAPTER III
Instruments and Relations with other Sectors

Section I
Instruments

Article 13
Strategic environmental assessment

1. The State, before consenting to any policy, legislation, programme, plan or project that could potentially impact on the environment, shall conduct a strategic environmental assessment identifying, describing and assessing any significant effects on the environment and ensuring the integration of environmental concerns into the decision-making procedure.
2. Strategic environmental assessment is preventative in nature and must ensure that any policy, legislation, programme, plan or project liable to have significant effects on the environment avoids, minimises or compensates said effects and is equipped with mechanisms to monitor the assessment of the state of the surrounding environment.
3. The assessment provided for in the present Article is aimed particularly at the agricultural, forestry, fisheries, energy, industrial, transport, waste and water management, telecommunications, tourism, spatial planning and soil and subsoil use sectors.

Article 14

Environmental standards

1. The State shall issue and publish environmental quality standards for the following environmental components:
 - a) Water;
 - b) Sea;
 - c) Air;
 - d) Soil and subsoil;
2. The State shall issue and publish emissions and environmental discharge standards for the environmental components referred to above, as well as for admissible light, vibration and noise levels, applicable to all of the country or to specific areas for certain processes, industries, sectors or products.
3. The law sets out the mechanisms for inspecting compliance with environmental quality and emissions standards in the aim of achieving integrated pollution control, under the provisions of the present law.

Article 15

Environmental assessment and licensing

1. The implementation of any programme, plan or project under the responsibility or initiative of a public or private institution that may affect the environment, national territory, the quality of life and health of the country's citizens or environmental components is prohibited by law if it fails to comply with the environmental assessment and licensing system and has not been issued with a respective licence.
2. For the purposes of the preceding paragraph, the law has established the environmental assessment and licensing system applicable to public or private programmes, plans and projects which, by their type, size, impact, scale, characteristics or location, affect the environment, national territory, the quality of life and health of the country's citizens and environmental components.
3. The environmental assessment and licensing system shall, among other aspects, make provision for:
 - a) The procedures for technical analyses of the programmes, plans and projects proposed;
 - b) The guiding principles for the decision-making processes;
 - c) The procedures for public consultation and participation in the decision-making processes;
4. The law sets out the mechanisms for monitoring the implementation of the programmes, plans or projects subject to the environmental assessment and licensing system during the various stages of construction, completion and dismantling.

Article 16

Environmental monitoring

1. It is incumbent upon the State to create a transparent, comprehensive and decentralised system of environmental monitoring that can implement integrated pollution control, assess the quality of environmental components, the state of use of natural resources and environmental impacts caused by economic activities, and gather the information necessary to comply with the present law.
2. The monitoring process provided for in point 1 includes the following:
 - a) Periodic collection and analysis of air, surface water, ground water, sea water, soil and subsoil samples;
 - b) Periodic reviews of the management of all types of waste and its impact on the environment;
 - c) Periodic reviews of the management of all types of waste and its impact on the environment¹;
 - d) Identification of cross-border environmental impacts on the country.
 - e) The disclosure of the results of environmental monitoring.
3. Responsibility for environmental monitoring falls upon the State, subject to the possibility of intervention by independent outside entities, pursuant to the law.

¹ Note that Paragraph (c) is a repeat of Paragraph (b). This is how it appears in the original Portuguese version, and is repeated here to preserve the numbering of the subsequent paragraphs.

Section II
Relationship with other Sectors

Article 17
Mainstreaming² and integration

Implementation of the environmental policy shall be integrated into other sectoral public policies, namely agriculture, forestry, fisheries, energy, industrial, transport, waste and water management, telecommunications, tourism, land use planning, and soil and subsoil use policies.

Article 18
Land use planning

1. It is incumbent upon the State to ensure that the national territory is organised and used appropriately and harmoniously, from the perspective of its development, in order to ensure and promote the principles and aims of environmental policy with a view to sustainable economic, social and cultural development.
2. Land use planning and management shall consider the specific needs of residential areas, namely the creation of basic infrastructure for sanitation, rubbish and toxic waste treatment, water treatment, noise pollution, light and vibration control, and preservation of green areas.
3. Planning and building in industrial and commercial areas shall take into account their specific environmental needs, ensuring compliance with environmental rules covering the control of pollution, noise, water and air, light and vibration, particularly with regard to the burning of industrial, agricultural and domestic fuels.
4. Land-use development and planning of inland areas shall consider the need for integrated management of water resources bearing in mind the potential impacts these may have on coastal areas.
5. Spatial planning should take into account the particular needs of the marine coast and marine ecosystems.

Article 19
Energy and industry

1. The implementation of environmental, energy and industrial should be so compatible and complementary in order to promote the use of sustainable energy sources and renewable resources, energy efficiency and encouraging environmentally sustainable economic activities and generate value.
2. It is incumbent upon the State to set out and implement an alternative energy strategy that can ensure national energy security and whose purpose is to:
 - a) Produce, promote and encourage the use of clean technologies and alternative energy from renewable natural resources;
 - b) Conduct research into appropriate technology for energy efficiency in urban and rural areas;
 - c) Introduce a phased increase in the amount of alternative energies in the total energy mix;
 - d) International cooperation and investment in the production and use of alternative energy sources.
3. The rules on the promotion, use and distribution of alternative energies shall be integrated into the national strategy for the energy sector and national development and poverty reduction plans.

Article 20
Agriculture, forestry and fisheries

Environmental, agriculture, forestry and fisheries policies shall be implemented in a compatible and complementary way to encourage the development of economic activities, resources, rural areas and the sea, as well as the sustainable use of natural resources, namely the soil, water and sea.

² Transversalidade

Article 21
Tourism

Environmental and tourism policies shall be implemented in a compatible and complementary way to promote the use of natural heritage as a source of wealth, enhancement and preservation through the promotion of environmentally sustainable tourism practices.

CHAPTER IV
Protection, Conservation and Sustainable Use of Environmental Components

Article 22
Protection, conservation and sustainable use

1. The State shall promote the protection, conservation and sustainable use of environmental components for the benefit of all citizens through the implementation of policies, legislation, programmes, plans and projects necessary for their sustainability and regeneration.
2. The law sets out the rules for the protection, conservation and sustainable use of environmental components, bearing in mind their particular characteristics and integration into the surrounding social, economic and cultural environment.
3. Subject to the polluter pays principle and the relevant environmental liability, the State shall promote the repair of the different environmental components affected by pollution or contaminants to ensure their preservation, with a view to their sustainable use.

Article 23
Air

It is incumbent upon the State to create the necessary mechanisms to protect, maintain and improve air quality, within the quality and environmental emissions standards set out, and to adopt integrated control measures for atmospheric pollution and the production, use, import and export of ozone-depleting substances, in the aim of preventing and reducing the harmful effects of air pollution on human health and environmental components.

Article 24
Surface and ground water

The State shall protect, conserve and improve the quantity and quality of surface and ground water and promote sustainable use of water resources by adopting an integrated water management plan that includes:

- a) Access and sharing of water resources by the different users;
- b) Management of the water basins;
- c) Regulation of well openings;
- d) Regulation of water use for agricultural, industrial and mining activities;
- e) Prevention of pollution and contamination of water resources;
- f) Creation of incentives to harvest rainwater and other water conservation measures;
- g) Construction of dams and diversions of water for any purpose;
- h) The participation of the local community and particularly vulnerable groups in water management;
- i) Conflict resolution mechanisms.

Article 25
Coastal areas

1. The State shall ensure integrated management of coastal areas as a basis for the conservation, protection and sustainable use of sea resources, ecosystems and marine species.
2. The establishment of an integrated management plan for coastal areas shall take into account the limits of natural processes and the long-term balance of environmental, economic, social, cultural and recreational components, including:
 - a) Control and prevention of pollution and the discharge of waste from land or maritime sources;
 - b) Regulation of fisheries and aquaculture activities;
 - c) The measures necessary for adaptation to climate change;

- d) Measures to respond to natural disasters;..
 - e) Measures to promote ecotourism.
3. The use of explosives, poisons or any other toxic substance is strictly prohibited during the use of marine ecosystems and species.

Article 26
Soil and subsoil

1. It falls to the State, by setting out and implementing an integrated policy, to ensure the conservation, protection, sustainable use and rehabilitation of the soil and subsoil to prevent its degradation, erosion and contamination and to ensure its productive capacity.
2. The State shall foster the implementation of measures which promote the adoption of alternatives to the use of pesticides in farming.
3. The State shall implement the necessary prevention and repair measures to impede and minimise the effects of soil and subsoil erosion to ensure its productive capacity.
4. The establishment of an integrated soil and subsoil management plan shall take into account:
 - a) The prevention and reduction of land degradation;
 - b) The rehabilitation of partially degraded land;
 - c) The recovery of degraded land.
5. The integrated soil and subsoil management plan shall be set out and implemented in a way which is compatible and complementary with the land use planning policy and the sectoral plans, namely, agriculture, forestry, tourism, industry, transport, and waste and water management.

Article 27
Biodiversity conservation

1. It is incumbent upon the State to set out and implement a biodiversity conservation strategy that ensures:
 - a) In-situ and ex-situ protection and conservation of ecosystems and species and their habitats;
 - b) The reproduction of threatened and endangered species in particular, in quality and quantity;
 - c) The rehabilitation and restoration of degraded habitats and ecosystems and the recovery of threatened and endangered species;
 - d) The creation and maintenance of a national system of protected areas that ensures the ecological coherence of the territory and the continued survival of species and ecosystems;
 - e) Access to and equal sharing of the benefits resulting from the sustainable use of genetic resources and from traditional knowledge.
2. All necessary measures shall be taken to ensure appropriate development, handling, transport, use, release and internal or cross-border transfers of any type of genetically modified living organism so as to prevent and minimise risks to biological diversity and human health.

Article 28
Species and ecosystems

1. The State shall ensure the conservation, protection and sustainable use of land, coastal, marine, wetland and other aquatic species and ecosystems and their components by adopting measures aimed specifically at:
 - a) Maintaining and regenerating species by recovering damaged habitats and ecosystems;
 - b) Controlling the threats to exotic and invasive species and the activities and use of substances liable to degrade or harm species and their habitats;
 - c) Controlling the use of substances liable to degrade or harm species and their habitats.
 - d) The maintenance of environmental services.
2. Land, coastal, wetland and other aquatic species and ecosystems which are threatened or endangered, or which due to their genetic potential, size, age, rarity, or scientific and cultural value require special protection, are subject to specific legislation.
3. Also framed by specific legislation are:
 - a) The domestic and international trade in endemic and endangered species;
 - b) Appropriate measures for conserving wetlands and their ecosystems;
 - c) Appropriate measures for conserving and protecting estuaries;

- d) Appropriate measures for conserving and protecting mangroves and underlying ecosystems;
- e) Appropriate measures for conserving and protecting coral, coral reefs and underlying ecosystems.

Article 29

Environmental heritage

The State shall promote the adoption of policies, programmes, plans and projects intended to avoid degradation and permanent measures to safeguard, enhance and preserve environmental heritage, in particular natural, cultural, historical and landscape heritage, ensuring appropriate community involvement.

Article 30

Mining industry

1. The special legislation applicable to the mining industry does not preclude the application of the present law to the activities provided in it.
2. Subject to the special legislation, the mining of non-renewable natural resources shall be conducted sustainably in specifically designated areas and in accordance with other requirements provided for by law.
3. The law, taking into account the size and volume of mining, lays out measures to minimise and mitigate the direct and aggregate impact of mining activities on the environment, particularly:
 - a) Integrated management and monitoring of mining activities to ensure legal compliance;
 - b) Adoption of obligatory environmental measures in natural resource mining contracts;
 - c) Setting of quality and environmental emissions standards for all stages of the mining process, especially the final stage;
 - d) Establishment of environmental management plans for all stages of the mining process, especially the final stage;
 - e) Minimisation of environmental impact wherever mining activities are conducted near a protected area;
 - f) Measures intended to respond to accidents during mining activities.

Article 31

Sand and gravel extraction

1. The special legislation applicable to sand and gravel extraction does not preclude the application of the present law to the activities provided in it.
2. Subject to the above, sand and gravel extraction from rivers, riverbanks, beaches or any other area may only take place in expressly designated areas and in compliance with the law, after a licence has been issued by the competent authorities and via payment of a fee, where applicable.
3. The costs of rehabilitating areas subject to environmental degradation or damage resulting from the sand or gravel extraction process are the responsibility of the extracting entity.

CHAPTER V

Pollution and Waste

Section I

Pollution

Article 32

Pollution control

1. The State shall ensure that appropriate measures are taken to avoid, minimise and reduce the occurrence of damage, environmental degradation and risks to public health, quiet, human well-being, environmental components and the sustainability of economic development caused by pollution.
2. The release, discharge or introduction of polluting substances in any way into the water, sea, air, soil or subsoil or any environmental component and their contamination is subject to quality and environmental emissions standards and other legislation in force, subject to the provisions of this law.
3. Human activities shall be pursued through use of the best techniques available and best environmental practices to ensure prevention of emissions and waste and the minimisation of their harmful effects.

4. The State shall promote measures to facilitate the adoption of alternatives to the use of fertilizers, pesticides and other agro-chemicals in agricultural production.

Article 33
Air pollution

1. The release of greenhouse gases and other polluting substances into the atmosphere shall be reduced, controlled and maintained within the limits of quality and environmental emissions standards and other legislation in force.
2. All installations, machinery, equipment, methods of transport, construction or any other activity which may affect air quality shall be equipped with filters and specific devices to reduce and neutralise polluting substances, in accordance with the law.
3. It is prohibited to import and produce controlled substances, in accordance with the terms of the Montreal Protocol on ozone depleting substances.

Article 34
Climate change

The State shall implement the measures necessary for climate change adaptation and mitigation in terms of reducing greenhouse gas emissions into the atmosphere and/or their removal by sinks and minimizing the negative effects of the impacts of climate change on biophysical and socioeconomic systems.

Article 35
Water pollution

1. The release or discharge of any polluting substance from land or sea into rivers, lakes, lagoons, underground waters, maritime waters or any water course or water storage area shall be reduced, controlled and kept within the limits established by quality and environmental emissions standards and other legislation in force.
2. It is the State's responsibility to create and maintain the means necessary to ensure the treatment and control of water pollution, including that from torrential rains.

Article 36
Noise and vibration pollution

Noise and vibration from domestic, commercial, industrial, construction and transport sources which have a negative effect on public health, quiet and human well-being and environmental components, above all in residential areas, shall be kept within the limits established by quality and environmental emissions standards and other legislation in force.

Article 37
Visual pollution

1. The existence of any type of light, whether fixed or intermittent, which due to its size, characteristics or location may disturb or adversely affect public health, quiet, human well-being, or environmental components, above all threatened or endangered species, shall be kept within the limits established by quality and environmental emissions standards and other legislation in force.
2. It is the State's responsibility to create and maintain the means necessary to control visual pollution resulting from economic activities, in particular from advertising or other activities that are harmful to the landscape.

Article 38
Dangerous chemicals

The importing of dangerous chemicals is subject to the State's prior and informed consent, in accordance with the terms to be established by law.

Section II
Waste

Article 39

Solid waste management

1. The law sets out the mechanisms governing the collection, transportation, storage, processing, reduction, re-use and recycling of solid waste, subject to the provisions of the present Article.
2. It is the responsibility of public bodies to collect, transport, store, process, reduce, re-use and recycle solid waste from domestic and commercial sources.
3. The collection, transportation, storage, processing, reduction, re-use and recycling of solid waste from hospital, industrial, construction or any other source not provided for in the preceding paragraph is the responsibility of its producer, in accordance with the terms of the law.
4. It is the responsibility of every citizen to ensure that solid waste is deposited in the designated places.
5. The necessary means and mechanisms shall be created to ensure the use of solid waste as a source of alternative energy production.

Article 40

Landfills

1. It is the State's responsibility to create and maintain sanitary landfills as sites specifically designed for the controlled disposal, either above or below the natural surface, of waste produced by human activity, whether commercial or industrial, using appropriate technologies and methods so as to avoid the contamination of the water table and prevent negative impacts on public health, human well-being and environmental components and promote environmental sustainability.
2. Waste may only be discharged in specifically designated areas by the competent bodies and in the conditions provided for in the authorization granted, in accordance with the law.

Article 41

Waste water

1. The State shall create the necessary means and mechanisms to ensure the appropriate treatment of domestic, commercial and industrial waste water and sewage effluent, with a view to preserving the quality of fresh, surface, ground and sea water.
2. Any establishment or installation which evacuates waste water is obliged to ensure its purification, in accordance with the environmental rules established for that purpose.

Article 42

Hazardous waste

1. The importing of hazardous waste is prohibited.
2. The identification, control, production, transportation, storage, exports and use of hazardous waste is subject to special legislation.

CHAPTER VI

Financial Measures and Economic Instruments

Article 43

Budget

1. The environment, when drawing up State plans and the budget, shall be considered a national priority.
2. The general State budget approved annually shall make provision for specific and adequate budgetary appropriations for activities to conserve and protect the environment, as well as to finance the costs of environmental recovery and rehabilitation stemming from natural catastrophes and emergencies.

Article 44

Environmental fund

An environmental fund may be created by law managed jointly by the government department responsible for the environment and the government department responsible for finance to fund the activities of management, conservation and environmental protection.

Article 45
Charges

Besides the charges provided for in the environmental licensing process, specific levies may be created by law for the provision of services provided by the environment.

Article 46
Economic instruments

1. The State shall ensure that adequate measures are taken to:
 - a) Determine the economic value of the country's environmental components and, based on this, determine the appropriate fines and compensation for environmental degradation and for the national environmental accounting system;
 - b) Create a national environmental accounting system incorporating the assessment of environmental components and the effect of their depreciation on GDP;
 - c) Promote investment in environmentally sustainable services available and produced in Timor-Leste using sustainable environmental technologies;
 - d) Promote investment in the development and use of alternative clean technologies and energy from renewable sources;
 - e) Develop a carbon and emissions trading system and other market mechanisms to enable national industries to participate in the mechanisms created by international agreements and ratified by Timor-Leste.

Article 47
Access and distribution of benefits

The law provides for equal access and distribution of the material and non-material benefits stemming from the use and sustainable exploitation of environmental components and natural resources for communities located in the area where they are exploited.

CHAPTER VII
Environmental Information and Education

Article 48
Environmental information system

1. The State shall create an environmental information system on the state of the environmental components, natural resource exploitation and identification of the programmes, plans and projects which may have a significant impact on public health and human well-being, the environmental components and ecological sustainability.
2. The environmental information system provided for in the preceding paragraph aims to facilitate the ordering, access, distribution and sharing of environmental information, and to promote environmental education and citizen participation in decision-making processes and the conservation and protection of the environment and natural resources.
3. The environmental information system shall be administered by a public body with competences for compiling, handling, ordering and divulging relevant environmental information in a way which is clear and accessible to the general public.
4. Other public or private bodies which in performing their functions provide services or develop environment-related programmes, plans and projects are obliged to collaborate with and provide relevant information to the body referred to in the preceding paragraph, subject to the legally safeguarded rights of third parties.

Article 49
Access to environmental information

1. Systematic environmental information, pursuant to the preceding Article, or any other relevant information shall be freely accessible to the general public in the official languages, subject to any confidentiality rules, under the legal provisions in force.

2. For the purposes of the preceding paragraph, the law sets out the mechanisms ensuring public availability and consultation of sufficient information on the programmes, plans or projects subject to environmental licensing and strategic environmental assessment to enable environmentally substantiated decisions to be taken.

Article 50

Environmental reports

1. Public bodies which develop programmes, plans or projects that have significant effects on the environment shall submit an annual report on these to the ministry responsible for the environment.
2. The ministry responsible for the environment shall submit an annual report to the council of ministers on the state of the environment based on the reports referred to in the preceding paragraph.
3. The reports provided for in the preceding paragraph shall be published for consultation in the official languages.

Article 51

Environmental education and training

1. Citizens shall be given environmental education and training as a strategic factor in the sustainable development of the country via the introduction of materials on environmental conservation and protection in the formal and non-formal education systems and through media channels.
2. The environmental education and training programmes shall be drawn up jointly by the ministries responsible for education, vocational training and the environment.

Article 52

Civic education

Permanent civic education on the environment shall be provided, via successive campaigns targeted at civil society in general and public employees in particular, to raise knowledge and awareness of the need to conserve and protect the environment and preserve and make sustainable use of natural resources.

Article 53

Scientific and technological research

The State shall encourage, promote and finance scientific and technological studies and research aimed at optimising, conserving, protecting and ensuring the sustainability of environmental components, biodiversity and natural resources and at preventing environmental degradation or damage.

CHAPTER VIII

Inspections, Emergency Situations, Civil Liability Insurance and Guarantees

Section I

Supervision and emergency situations

Article 54

Implementation and inspections

1. The State shall create the necessary means and mechanisms to implement the present law and to establish a decentralised system of environmental inspections, subject to the provisions herein.
2. Environmental inspections may be conducted at any time, whenever there is an indication that environmental legislation may have been infringed.
3. Public bodies, citizens and legal persons are subject to the obligation to collaborate with the bodies responsible for environmental inspections in accordance with the law.
4. The public body responsible for environmental inspections may, wherever the infringement of environmental legislation is at stake, issue general guidelines regarding compliance with the law and order the offender to cease polluting activities, clean up or rehabilitate the site subject to damage or environmental degradation or issue any other orders deemed appropriate to return it to its original state.

5. Any attempt to interfere with environmental inspections, provision of false information or non-compliance with the guidelines and orders provided for in the preceding paragraph shall result in an administrative or criminal penalty in accordance with the law.

Article 55

Public participation in environmental inspections

1. For the purposes of paragraph 3 of the preceding Article, the State shall promote the participation of public bodies, citizens and legal persons in implementing this law and in conducting environmental inspections by creating mechanisms for the reporting of suspected infringements of environmental legislation.
2. For the purposes of the preceding paragraph, the law shall establish a decentralised and transparent system for reporting environmental violations which ensures that they are registered and that the competent services are able to respond rapidly.

Article 56

Emergencies

1. The State shall create an integrated system to prevent and respond to environmental emergencies caused by human activities or natural disasters that cause damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment.
2. The provisions of the preceding paragraph do not absolve the bodies responsible for activities that cause potential damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment from maintaining a system for responding to environmental emergencies.
3. The environmental management and decommissioning plans obligatory by law shall include provisions for the prevention of incidents and response to emergency situations so as to avoid the occurrence of damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment.
4. Whoever suspects or detects an environmental emergency situation must report it to the public bodies to ensure public safety and to avoid the occurrence of damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment.
5. Temporary environmental measures for specific emergency situations may be approved to help rehabilitate affected areas, avoid damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment, or degradation, and to restore ecosystems and species.
6. The State shall provide other States which might be affected by an emergency situation that occurs within the territorial jurisdiction of Timor-Leste with sufficient warning.

Section II

Civil Liability Insurance and Guarantee

Article 57

Civil liability insurance

1. Whoever implements programmes, plans or projects involving risks of damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment must be covered by civil liability insurance.
2. The obligation in the preceding paragraph is applicable to the programmes, plans or projects subject to the environmental assessment and licensing regime, in accordance with the law.

Article 58

Guarantee³

1. The programmes, plans or projects subject to the environmental assessment and licensing regime may require a security to be lodged to cover any negative impacts on the environment, including environmental disasters which may occur during the building, implementation or dismantling period.

³ Garantia

2. The security lodged under the present Article shall be returned once the activity has ceased, as long as no negative impacts on the environment have been verified.
3. The terms for the provision of the security provided for in the present Article are established by law.

CHAPTER IX
Liability and Judicial Oversight

Section I
Liability

Article 59
Administrative liability

1. Violations of the present law are deemed punishable by an administrative fine, the maximum and minimum limits of which are defined by law in accordance with the seriousness of the infringement.
2. Administrative liability is independent of any civil or criminal liability that may arise in accordance with the law.
3. If conduct is punishable both as a crime and an administrative offence, the offender shall always be punished according to the former, subject to any additional penalties provided for the offence.
4. Negligence and attempted damage are always punishable.
5. The State shall develop general guidelines and directives to assess environmental damage for the purposes of establishing an offender's liability.

Article 60
Objective liability

1. Wherever an actor has damaged the environment, compensation shall be provided, irrespective of guilt.
2. Assessment of the seriousness of the damage and the establishment of the amount of compensation to be paid is the responsibility of the courts, under the general terms of the law, subject to the provisions of Article 60.5.

Article 61
Additional penalties

1. The violation of the present law and other environmental legislation may result in the application of the following additional penalties subject to the provisions of the following Article:
 - a) Disqualification from engaging in a profession or activity;
 - b) Revoking of licences or permission to engage in an activity;
 - c) Seizure, loss or removal to the State of material or equipment used or produced during the infringement;
 - d) Loss of right to a subsidy awarded by a public body or service;
 - e) Loss of tax benefits, credit benefits and lines of financing from credit establishments already enjoyed;
 - f) Reimbursement of the State of an amount equal to the market value of the natural resources used in violation of the provisions of environmental legislation and of the environmental degradation or damage caused, plus interest;

Article 62
Repair, rehabilitation and compensation

1. Whoever, in violation of the legal and regulatory provisions in force, causes damage to one or more environmental components, is obliged to return it to its original state, subject to Article 59.
2. Wherever the obligation referred to in the preceding paragraph is not voluntarily complied with, the competent authority may undertake the demolition, construction and other work necessary to rehabilitate it and return it to its original state prior to the infringement at the offender's expense.
3. If it is not possible to return it to its original state or it is not possible to adopt other measures in the aim of doing so, the offender is obliged to pay compensation, under the general terms of the law.

4. The compensation provided for in the preceding paragraph shall be allocated equitably to the local communities affected.

Section II Judicial Oversight

Article 63 Judicial Oversight

1. The public prosecutor's office is responsible, before the relevant courts, for protecting the environment and ensuring that the present law and other environmental legislation are implemented and complied with.
2. Any natural or legal person who feels that their rights are threatened or have been harmed is legitimately entitled to bring the case before the courts to request that the said threatening or harmful conduct be stopped and the relevant compensation be paid, under the general terms of the law.
3. The legitimacy of any person, or association, foundation and local community, to propose and intervene in principal and protective proceedings to safeguard the environment is also recognised, irrespective of personal interest in the matter.
4. All members of the interested public are legitimately entitled to question the procedural or substantive legality of the decisions, actions or omissions of public bodies.
5. The right to bring a matter before the courts provided for in the present Article may be exercised directly and without the need for prior administrative review.

Article 64 Alternative dispute settlement

1. It is incumbent upon the State to develop alternative environmental dispute settlement procedures, such as arbitration, conciliation and mediation, and to create the mechanisms and means necessary to ensure their use, subject to the provisions in the preceding Article.
2. Local communities may use the local recognised institutions and mechanisms for alternative settlement of environmental disputes, subject to the aims and principles set out in the present law.
3. Environmental dispute settlement does not apply in the case of environmental crimes.
4. The provisions in the preceding paragraphs shall not jeopardise the right to bring a case to the competent courts of the Democratic Republic of Timor-Leste, in accordance with the law.

CHAPTER X Final and Temporary Provisions

Article 65 International cooperation

It is incumbent upon the State, in line with the principle of international cooperation and the terms of the general principles of international law, to cooperate with other States in the shared management of cross-border environmental components and risks and in compliance with the aims of regularly ratified international conventions and agreements.

Article 66 International conventions and agreements

The regulation of the present law and the approval of environmental legislation shall take account of international conventions and agreements regularly ratified by Timor-Leste.

Article 67 Environmental quality standards

Until environmental quality standards have been established by domestic law, the standards endorsed by the World Health Organisation shall apply.

Article 68 Environmental auditing

1. All the programmes, plans and projects implemented by public or private entities, which on the date this law came into effect were underway and which had not applied environmental protection measures, resulting in damage, an imminent risk of damage or a very significant danger of serious irreparable damage to the environment, shall be subject to an environmental audit.
2. Audits performed under the terms of the preceding paragraph which confirm the existence of damage to the environmental components shall identify the necessary rehabilitation measures and establish a long-term management plan.
3. The audit process is initiated by the ministry responsible for the environment either automatically or upon request.
4. Environmental audits shall be performed by an independent entity and submitted to the ministry responsible for the environment.
5. Environmental audits are subject to public consultation in accordance with the system of environmental assessment and licensing, and their results should be made available for public consultation.
6. The costs stemming from the repair of environmental damage identified by an audit are the responsibility of those who caused it.
7. The results of an audit are independent of any possible civil, administrative or criminal liability and compliance with other obligations provided for by law.

Article 69.

Revocation

All legislation which is contrary to that contained herein shall be deemed revoked.

Article 70

Additional legislation

The contents of the present law shall form the basis of additional legislation approved by the State.

Article 71

Entry into force

The present law shall come into effect on the day following its publication.

Approved by Council of the Ministers on 11 of April 2012.

Prime Minister,
Kay Rala Xanana Gusmão

The Minister of Economy and Development,
João Mendes Gonçalves

The President of the Republic,
Taur Matan Ruak