

**DECREE-LAW No. 36 /2012
of July 18th**

**CONTROL OF IMPORTS AND EXPORTS OF SUBSTANCES
THAT DEplete THE OZONE LAYER**

Aware of the negative impacts on health and the environment caused by the modification of the ozone layer, Timor-Leste ratified the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol to reduce substances that deplete the ozone layer.

In this context, it is necessary not only to implement in the internal legal system the guidelines contained in these international instruments, but also to promote and encourage the adoption of measures to protect the ozone layer.

Thus,

The Government decrees, under the provisions of subparagraph e) of paragraph 1 of article 115 of the Constitution of the Republic, to be valid as law, the following:

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Object and scope**

The present diploma establishes the rules for the licensing of imports and exports of substances that deplete the ozone layer for the protection of the environment and the implementation in the internal legal order of the guidelines contained in the Vienna Convention for the protection of the ozone layer and the Montreal Protocol for the reduction of substances that deplete the ozone layer.

**Article 2
Definitions**

For the purposes of the present diploma, the following definitions apply

- a) *ozone layer* - that part of the atmosphere, known as the stratosphere, 10 to 50 km thick above the earth's surface composed of ozone molecules and which acts as a filter, preventing highly energetic ultraviolet radiation (UV-B and UV-C) of solar origin and essential for life on the surface of the planet.
- b) *Vienna Convention* - means the Vienna Convention for the Protection of the Ozone Layer, adopted in Vienna in 1985, including any amendment or replacement that becomes legally binding.
- c) *Products using substances that deplete the ozone layer* - any product that by its composition has harmful effects on the ozone layer, namely:
 - i. Motor vehicle air conditioning units, including cars and trucks, even if not incorporated into them;
 - ii. Domestic and commercial refrigeration equipment including, but not limited to, air conditioning equipment, refrigerators, freezers, dehumidifiers, cold water tanks, ice making machines

- iii. Heat pumps;
 - iv. Aerosol products, with the exception of medical aerosols;
 - v. Portable fire extinguishers;
 - vi. Insulation boards, panels and pipe covers;
 - vii. Pre-polymers.
- d) *Montreal Protocol* - means the Montreal Protocol for the Reduction of Substances that Deplete the Ozone Layer adopted in Montreal in 1987, including any amendment or replacement that becomes legally binding.
- e) *Ozone Depleting Substances or Regulated Substances* - are chemical substances listed in annex I to the present diploma and which have an adverse effect when in contact with the ozone molecules present in the stratosphere and are composed essentially of chlorinated, fluorinated or brominated hydrocarbons, including:
- i. Chlorofluorocarbons (CFCs);
 - ii. Halons;
 - iii. Carbon tetrachloride;
 - iv. Methyl Chloroform;
 - v. Hydrochlorofluorocarbons (HCFCs);
 - vi. Hydrobromofluorocarbons (HBFCs);
 - vii. Bromochloromethane;
 - viii. Methyl bromide.

Article 3

International Cooperation

In the execution of the present diploma the Government encourages and promotes international cooperation, namely through the exchange of information, for the control of import and export of substances that deplete the ozone layer.

Article 4

Precautionary principle

1. The entities responsible for the execution of this legal diploma or whose responsibilities are directly or indirectly related to the use, manufacture, storage, sale, handling or circulation of ozone-depleting substances, shall observe the precautionary principle in the exercise of their functions.
2. For the purposes of this statute, the precautionary principle shall be understood as meaning that the absence of full scientific certainty of the existence of a risk of serious or irreversible damage to the environment or to human health shall not be used as a reason for postponing the adoption of effective measures to prevent or minimize potential adverse effects or risks arising from the import, use, manufacture, storage, sale, handling or circulation of ozone-depleting substances.

Article 5

Powers of the governmental department responsible for the environment

For the purposes of the present diploma, the governmental department responsible for the area of the environment has powers to:

- a) Proceed with the registration and issue the license referred to in article 8 of the present diploma and to proceed with its revocation under the terms of number 3 of article 14 of the present diploma;
- b) Develop, in coordination with the other public entities concerned, a national program for the elimination of substances that deplete the ozone layer;
- c) Monitor the implementation of the national program for the elimination of substances which deplete the ozone layer and projects related to the consumption of such substances;
- d) Publish annually, the annual quota referred to in article 7 of the present diploma;
- e) Act, as coordinator between the various public entities interested, in the implementation of import and export control measures for controlled substances;
- f) Promote training actions for public officials and private entities related to the use of alternative substances which reduce, eliminate or avoid the harmful effects on the ozone layer;
- g) Promote, in coordination with interested public entities, public awareness actions for users of substances that deplete the ozone layer, namely through the dissemination of information and clarifications on the national program for the elimination of substances that deplete the ozone layer;
- h) Encourage the creation of cooperation activities with the international community for the protection of the ozone layer;
- i) Submit to the Ozone Secretariat relevant information and reports on the progress of programs and projects implemented and funded by the Multilateral Fund for the Ozone Depleting Substances Elimination;
- j) Supervise, jointly with the customs authorities, the application of the provisions of the present diploma;
- k) Control the import and export of hydrochlorofluorocarbons, products, materials, equipment or vehicles which have been conceived for the use of such substances in the present diploma.

CHAPTER II

IMPORT AND EXPORT OF CONTROLLED SUBSTANCES

Article 6

Controlled substances

The chemical substances that deplete the ozone layer, as listed in Annex I to this decree, and that have an adverse effect when in contact with ozone molecules present in the stratosphere, and are composed essentially of chlorinated, fluorinated or brominated hydrocarbons, as defined in article 2 (e).

Article 7

Import and export of controlled substances prohibited

1. The importation and exportation of controlled substances and of products, materials, equipment or vehicles designed for the use of ozone-depleting substances referred to in the previous article and listed in Annex I to this Order is hereby prohibited, without prejudice to the provisions of the following paragraph and articles
2. Without prejudice to the provisions of the previous number, the government department responsible for the environment may authorize the importation of regulated substances for medical, research, quarantine, pre-shipment or laboratory and analytical purposes.

Article 8

Import quota for hydrochlorofluorocarbons

1. The government department responsible for the area of the environment shall issue an annual quota establishing the maximum admissible limit for the import of hydrochlorofluorocarbons.
2. The annual quota limit shall be determined for each importer taking into account the history of the importer and the provisions of Article 11.

Article 9

Registration and licensing

1. The import or export of hydrochlorofluorocarbons and of products, materials, equipment or vehicles designed to use ozone-depleting substances is subject to prior registration and licensing by the government department responsible for the environment.
2. Only entities that have been granted a registration and a license under the terms of the preceding paragraph are allowed to import or export hydrochlorofluorocarbons or products, materials, equipment or vehicles that have been conceived for use of substances that deplete the ozone layer.
3. A copy of the registration and license issued to each importer and exporter under the terms foreseen in this statute shall be sent to the customs authorities.
4. The law shall define the procedures necessary to carry out the registration and obtain the license foreseen in this article.

Article 10

Annual report

1. The entities to which a registration and a license have been granted are obliged to present an annual report describing the quantity of hydrochlorofluorocarbons traded, as well as the products, materials, equipment, or vehicles which have been designed to use such substances.
2. The report must be submitted to the government department responsible for the environment within the first three months of each year.

Article 11

Hydrochlorofluorocarbon Phaseout Schedule

Registration and licensing for import and export of hydrochlorofluorocarbons shall be issued by the competent authorities in accordance with the following timetable:

- a) From 1 January 2013 to 31 December 2014, the annual consumption may not exceed the average level of 2009 and the consumption of 2010;
- b) From 1 January 2015 to 31 December 2019, the annual consumption shall not exceed 90% of the average level in 2009 and the consumption in 2010
- c) From 1 January 2020 to 31 December 2024, the annual consumption shall not exceed 65% of the 2009 average level and 2010 consumption;
- d) From 1 January 2025 to 31 December 2029, annual consumption shall not exceed 32.5% of the 2009 average level and 2010 consumption;
- e) From 1 January 2030 until 31 December 2039, total consumption in this period shall not exceed 2.5% of the 2009 average level and 2010 consumption.
- f) On January 1, 2040, complete elimination of hydrochlorofluorocarbons.

CHAPTER III

SUPERVISION AND SANCTIONS

Article 12

Supervision

1. Supervision of compliance with the provisions contained in the present diploma is the duty of the customs authorities, under the terms of the law, without prejudice to the collaboration of the government department responsible for the area of the environment.
2. Without prejudice to the provisions of the customs legislation, the governmental department responsible for the environment shall keep an updated record of the supervision performed under the terms of the previous article.
3. The supervised entities have the duty of cooperation with the supervising entities and shall provide all the necessary information, under the terms of the law.

Article 13

Sanctions

1. The following constitute serious administrative offenses, punishable with a fine from \$ 1,000.00 to \$ 15,000.00 when committed by natural persons and from \$ 1,000.00 to \$ 30,000.00 when committed by legal entities
 - a) The import and export of controlled substances and of products, materials, equipment or vehicles designed for the use of ozone-depleting substances in violation of the provisions of paragraph 1 of Article 6 of the present diploma.
 - b) The importation of hydrochlorofluorocarbons in violation of the provisions of number 1 of article 7 of the present diploma.
 - c) The import or export of hydrochlorofluorocarbons and of products, materials, equipment or vehicles that have been designed to use substances that deplete the ozone layer in violation of the provisions of number 1 and 2 of article 8 of the present diploma.
2. The following also constitute administrative offenses, punishable by a fine of \$500.00 to \$10,000.00 when committed by natural persons and \$1,000.00 to \$20,000.00 when committed by legal persons
 - a) The delay or failure to send the report referred to in article 9 of the present diploma;
 - b) Obstructing the inspection with violation of the provisions of article 13 of the present diploma, including the provision of false information.
3. Without prejudice to the provisions of the preceding articles, the government department responsible for the environment may, at any time, revoke the license granted to the offender whenever this is justified by the seriousness and repetition of the violation of the provisions of this law.
4. Negligence shall be punishable.

Article 14

Processing and application of fines

1. The processing of administrative offenses is the responsibility of the inspecting entity that drew up the notice of the infraction.

2. The application of fines falls within the competence of the responsible for the area of the environment.

Article 15

Proceeds from fines

The proceeds from the fines provided for in the previous article are allocated to the coffers of the State.

CHAPTER V

FINAL PROVISIONS

Article 16

Regulation

The execution norms for the present document are the object of a ministerial statute from the governmental department responsible for the area of the environment.

Article 17

Entry into force

The present decree-law comes into effect on the day following its publication.

Approved by the Council of Ministers on May 29, 2012.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Economy and Development,

João Mendes Gonçalves

Promulgated on 13 July, 2012

Be it published.

The President of the Republic,

Taur Matan Ruak

ANNEX I

SUBSTANCES THAT DEplete THE OZONE LAYER

GROUP I

CFCs (CHLOROFLUOROCARBONES)

<i>Chemical Formula</i>	<i>Ozone</i>	<i>Substance-Destruction Potential*</i>
CFCl_3	CFC-11	1.0
CF_2Cl_2	CFC-12	1.0
$\text{C}_2\text{F}_3\text{Cl}_3$	CFC-113	0.8
$\text{C}_2\text{F}_4\text{Cl}_2$	CFC-114	1.0
$\text{C}_2\text{F}_5\text{Cl}$	CFC-115	0.6

GROUP II

HALONS

GROUP III

OTHER CFCs (CHLOROFLUOROCARBONS)

GROUP IV

CARBON TETRACHLORIDE

GROUP V

METHYL CHLOROFORM

This formula does not refer to 1,1,2-trichloroethane.

GROUP VI
HCFCS (HYDROCHLOROFLUOROCARBONS)

<i>Chemical Formula</i>	<i>Substance</i>	<i>Number of isomers</i>	<i>Ozone- Destruction Potential</i>
CHCl_2CF_3	(HCFC-123)	-	0,02
$\text{C}_2\text{HF}_2\text{Cl}$	(HCFC-124)	2	0,02-0,04
$\text{CHF}_2\text{ClCF}_3$	(HCFC-124)	-	0,022
$\text{C}_2\text{H}_2\text{FCl}_3$	(HCFC-131)	3	0,007-0,05
$\text{C}_2\text{H}_2\text{F}_2\text{Cl}_2$	(HCFC-132)	4	0,008-0,05
$\text{C}_2\text{H}_2\text{F}_3\text{Cl}$	(HCFC-133)	3	0,02-0,06
$\text{C}_2\text{H}_2\text{FCl}_2$	(HCFC-141)	3	0,005-0,07
$\text{CH}_3\text{CF}_2\text{Cl}_2$	(HCFC-141b)	-	0,11
$\text{C}_2\text{H}_2\text{F}_2\text{Cl}$	(HCFC-142)	3	0,008-0,07
$\text{CH}_3\text{CF}_2\text{Cl}$	(HCFC-142b)	-	0,065
$\text{C}_2\text{H}_2\text{F}_2\text{Cl}$	(HCFC-151)	2	0,003-0,005
C_3HFCl_6	(HCFC-221)	5	0,015-0,07
$\text{C}_3\text{HF}_2\text{Cl}_5$	(HCFC-222)	9	0,01-0,09
$\text{C}_3\text{HF}_3\text{Cl}_4$	(HCFC-223)	12	0,01-0,08
$\text{C}_3\text{HF}_4\text{Cl}_3$	(HCFC-224)	12	0,01-0,09
$\text{C}_3\text{HF}_5\text{Cl}_2$	(HCFC-225)	9	0,02-0,07
$\text{CF}_3\text{CF}_2\text{CHCl}_2$	(HCFC-225ca)	-	0,025
$\text{CF}_2\text{ClCF}_2\text{CHClF}$	(HCFC-225cb)	-	0,033
$\text{C}_3\text{HF}_6\text{Cl}$	(HCFC-226)	5	0,02-0,10
$\text{C}_3\text{H}_2\text{FCl}_5$	(HCFC-231)	9	0,05-0,09
$\text{C}_3\text{H}_2\text{F}_2\text{Cl}_4$	(HCFC-232)	16	0,008-0,10
$\text{C}_3\text{H}_2\text{F}_3\text{Cl}_3$	(HCFC-233)	18	0,007-0,23
$\text{C}_3\text{H}_2\text{F}_4\text{Cl}_2$	(HCFC-234)	16	0,01-0,28
$\text{C}_3\text{H}_2\text{F}_5\text{Cl}$	(HCFC-235)	9	0,03-0,52
$\text{C}_3\text{H}_3\text{FCl}_4$	(HCFC-241)	12	0,004-0,09
$\text{C}_3\text{H}_3\text{F}_2\text{Cl}_3$	(HCFC-242)	18	0,005-0,13
$\text{C}_3\text{H}_3\text{F}_3\text{Cl}_2$	(HCFC-243)	18	0,007-0,12
$\text{C}_3\text{H}_3\text{F}_4\text{Cl}$	(HCFC-244)	12	0,009-0,14
$\text{C}_3\text{H}_4\text{FCl}_3$	(HCFC-251)	12	0,001-0,01
$\text{C}_3\text{H}_4\text{F}_2\text{Cl}_2$	(HCFC-252)	16	0,005-0,04
$\text{C}_3\text{H}_4\text{F}_3\text{Cl}$	(HCFC-253)	12	0,005-0,03
$\text{C}_3\text{H}_4\text{FCl}_2$	(HCFC-261)	9	0,002-0,02
$\text{C}_3\text{H}_4\text{F}_2\text{Cl}$	(HCFC-262)	9	0,002-0,02
$\text{C}_3\text{H}_5\text{FCl}$	(HCFC-271)	5	0,001-0,03

GROUP VII
HBFCs (HYDROBROMOFLUOROCARBONS)

<i>Chemical Formula</i>	<i>Substance</i>	<i>Number of isomers</i>	<i>Ozone- Destruction Potential</i>
CHFBr_2		1	1,00
CHF_2Br	(HBFC-22B1)	1	0,74
CH_2FBr		1	0,73
C_2HFBr_4		2	0,3-0,8
$\text{C}_2\text{HF}_2\text{Br}_3$		3	0,5-1,8
$\text{C}_2\text{HF}_3\text{Br}_2$		3	0,4-1,6
$\text{C}_2\text{HF}_4\text{Br}$		2	0,7-1,2
$\text{C}_2\text{H}_2\text{FBr}_3$		3	0,1-1,1
$\text{C}_2\text{H}_2\text{F}_2\text{Br}_2$		4	0,2-1,5
$\text{C}_2\text{H}_2\text{F}_3\text{Br}$		3	0,7-1,6
$\text{C}_2\text{H}_3\text{FBr}_2$		3	0,1-1,7
$\text{C}_2\text{H}_3\text{F}_2\text{Br}$		3	0,2-1,1
$\text{C}_2\text{H}_4\text{FBr}$		2	0,07-0,1
C_3HFBr_6		5	0,3-1,5
$\text{C}_3\text{HF}_2\text{Br}_5$		9	0,2-1,9
$\text{C}_3\text{HF}_3\text{Br}_4$		12	0,3-1,8
$\text{C}_3\text{HF}_4\text{Br}_3$		12	0,5-2,2
$\text{C}_3\text{HF}_5\text{Br}_2$		9	0,9-2,0
$\text{C}_3\text{HF}_6\text{Br}$		5	0,7-3,3
$\text{C}_3\text{H}_2\text{FBr}_5$		9	0,1-1,9
$\text{C}_3\text{H}_2\text{F}_2\text{Br}_4$		16	0,2-2,1
$\text{C}_3\text{H}_2\text{F}_3\text{Br}_3$		18	0,2-5,6
$\text{C}_3\text{H}_2\text{F}_4\text{Br}_2$		16	0,3-7,5
$\text{C}_3\text{H}_2\text{F}_5\text{Br}$		8	0,9-1,4
$\text{C}_3\text{H}_3\text{FBr}_4$		12	0,08-1,9
$\text{C}_3\text{H}_3\text{F}_2\text{Br}_3$		18	0,1-3,1
$\text{C}_3\text{H}_3\text{F}_3\text{Br}_2$		18	0,1-2,5
$\text{C}_3\text{H}_3\text{F}_4\text{Br}$		12	0,3-4,4
$\text{C}_3\text{H}_4\text{FBr}_3$		12	0,03-0,3
$\text{C}_3\text{H}_4\text{F}_2\text{Br}_2$		16	0,1-1,0
$\text{C}_3\text{H}_4\text{F}_3\text{Br}$		12	0,07-0,8
$\text{C}_3\text{H}_5\text{FBr}_2$		9	0,04-0,4
$\text{C}_3\text{H}_5\text{F}_2\text{Br}$		9	0,07-0,8
$\text{C}_3\text{H}_6\text{FBr}$		5	0,02-0,7

GROUP VIII
BROMOCHLOROMETHANE

<i>Chemical Formula</i>	<i>Substance</i>	<i>Number of isomers</i>	<i>Ozone- Destruction Potential</i>
CH ₂ BrCl	Bromoclorometano	1	0.12

GROUP IX
METHYL BROMIDE

<i>Chemical Formula</i>	<i>Substance</i>	<i>Ozone- Destruction Potential</i>
CH ₃ Br	(Mono) bromometano	0.6