



REGULATION No. 2002/6

**ON THE ESTABLISHMENT OF THE PUBLIC BROADCASTING SERVICE
OF EAST TIMOR**

The Special Representative of the Secretary-General (hereinafter: Transitional Administrator),

Pursuant to the authority given to him under United Nations Security Council resolution 1272 (1999) of 25 October 1999, as reaffirmed in United Nations Security Council Resolution 1338 (2001) of 31 January 2001,

Taking into account the United Nations Transitional Administration in East Timor (UNTAET) Regulation 1999/1 of 27 November 1999 on the Authority of the Transitional Administration in East Timor;

Following the recommendation of the Council of Ministers, under Section 3.1(c) of UNATET Regulation No. 2001/28 on the Establishment of the Council of Ministers, and upon the endorsement of the Constituent Assembly, under Section 2.5 of UNTAET Regulation No. 2001/2 on the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor,

For the purpose of establishing a public broadcasting service for East Timor,

Promulgates the following:

Section 1
Interpretation

For the purposes of the present Regulation, in the absence of any indication to the contrary:

‘broadcasting’ includes radio and television broadcasting;

‘independent production houses’ means individuals who, or companies which, produce programmes for radio or television and are independent of any individual broadcasting corporation;

‘Constituent Assembly’ means Constituent Assembly established under UNTAET Regulation No. 2001/2 or its successor.

Section 2
Establishment of the Public Broadcasting Service

(1) The East Timor Public Broadcasting Service (hereinafter: Public Broadcasting Service) is hereby established to provide a public service of broadcasting for the people of East Timor.

(2) The Public Broadcasting Service shall have legal capacity:

- (a) to institute and be subject to legal proceedings of whatever nature;
- (b) to enter into contracts and conclude agreements;
- (c) to acquire and dispose of movable and immovable property; and,
- (d) to perform such other acts and do such other things as juridical persons may by law perform and do, subject to the provisions of the present Regulation.

Section 3
Objectives of the Public Broadcasting Service

The objectives of the Public Broadcasting Service shall be:

(1) the promotion of public service broadcasting that guarantees the right of freedom of opinion and expression, including the freedom to seek, receive and impart information and ideas;

(2) the promotion of public service broadcasting that promotes open communication of ideas and contributes to a peaceful social environment;

(3) the promotion of public service broadcasting that contributes to the maintenance of the unity and national identity of East Timor;

(4) the promotion of public service broadcasting that respects the cultural, religious or other beliefs of all the people of East Timor.

(5) the development of broadcasting programmes that enhance the unique and diverse character of the various languages, cultures, communities and minorities constituting the society of East Timor;

(6) the promotion of accurate, informative, educational, entertaining and creative broadcasting;

(7) the fostering of the growth of the broadcasting service of East Timor into a financially-viable sector capable of competing with foreign broadcasting service providers; and,

(8) the encouragement of the co-operation between local and foreign broadcasters, especially in the fields of programming and technical and human resources.

Section 4
Broadcasting Principles

The public service of broadcasting shall be regulated by the following principles:

- (1) Independence from governmental, political, economic or other control and editorial integrity;
- (2) News which are consistently reliable, accurate, objective and comprehensive;
- (3) Clear and effective presentation of the policies of the Government of East Timor and responsible discussion and opinion on those policies;
- (4) Clear and effective presentation of proposals and opinions from opposition political parties and non governmental organizations and responsible discussion on those proposals and opinions; and
- (5) Balanced and comprehensive projection of East Timor's thought and institutions, reflecting the diversity of East Timorese culture and society.

Section 5
Functions and responsibilities of public broadcasting

- (1) The Public Broadcasting Service shall provide a wide range of programming for the whole territory of East Timor that informs, educates and entertains, in accordance with the broadcasting policy objectives as enunciated in Section 3 of the present Regulation.
- (2) The Public Broadcasting Service shall provide innovative and high quality broadcasting in East Timor.
- (3) The Public Broadcasting Service shall broadcast programmes that reflect a variety of views and perspectives, and satisfy the needs and interests of the general public in relation to informative broadcasting.
- (4) The Public Broadcasting Service shall complement programming provided by private and other broadcasters consistent with the broadcasting policy objectives as enunciated in Section 3 of the present Regulation.
- (5) The Public Broadcasting Service shall promote local content and independent production houses in accordance with the broadcasting policy objectives as enunciated in Section 3 of the present Regulation.
- (6) In fulfilling the functions and responsibilities stated in this Section, the Public Broadcasting Service shall strive to provide a broadcasting service that:
 - (a) contributes to a sense of national identity, while reflecting and recognising the cultural diversity of East Timor;
 - (b) promote Portuguese and Tétum languages as the official languages of East Timor;

- (c) includes comprehensive, impartial and balanced news and current affairs programmes covering national and international events;
- (d) strikes a balance between programming of wide appeal and specialised programmes that serve the needs of different audiences, including an adequate proportion of educational programmes, and programmes oriented towards the protection of the rights of children, women, youth, disabled and other disadvantaged or minority groups;
- (e) provides adequate coverage of political events of general public interest including the proceedings of the Constituent Assembly;
- (f) broadcasts programmes that are of interest to different communities and produced in the various languages of East Timor;
- (g) enriches the cultural heritage of East Timor by providing support to traditional and contemporary artistic expressions;
- (h) ensures the diffusion of important public announcements;
- (i) contributes to informed debate and critical thought; and
- (j) includes programmes made by the Public Broadcasting Service and that may include programmes commissioned from independent production houses, in accordance with the broadcasting policy objectives as enunciated in Section 3 of the present Regulation.

Section 6 Broadcasting License

The Public Broadcasting Service shall be subject to regulation by the Communications Regulatory Authority established by UNTAET Regulation No. 2001/15 on the Establishment of an Authority for the Regulation of Telecommunications in East Timor and shall comply with all legal and administrative requirements of that Authority applicable to it, including any requirement to obtain a broadcast licence.

Section 7 Board of Directors

- (1) The Public Broadcasting Service shall have a Board of Directors that shall have overall responsibility for determining the policies and for ensuring the accountability of the Public Broadcasting Service.
- (2) The Board of Directors shall seek to ensure that the Public Broadcasting Service responds to the needs and interests of the people of East Timor.
- (3) The Board of Directors shall not interfere with the day-to-day management of the Public Broadcasting Service nor with the editorial independence of the Managing Director and his or her staff.
- (4) The Board of Directors shall consist of a total of five (5) East Timorese members who shall be appointed by the Transitional Administrator and who shall possess qualifications, expertise or experience in broadcasting, economics, education, law, business, finance or public administration.

(5) Qualified women candidates should be strongly considered for the shortlists and by the Transitional Administrator for appointment.

(6) Two (2) members of the Board of Directors referred to in Subsection (4) herein shall be selected by the Transitional Administrator from a shortlist of five (5) candidates provided by the Government.

(7) One member of the Board of Directors referred to in Subsection (4) herein shall be selected by the Transitional Administrator from a shortlist of three (3) candidates, provided by the Constituent Assembly.

(8) One member of the Board of Directors referred to in Subsection (4) herein shall be a representative of the public television service and shall be selected by the Transitional Administrator from a list of three (3) journalists of the public television service elected among themselves.

(9) One member of the Board of Directors referred to in Subsection (4) herein shall be a representative of the public radio service and shall be selected by the Transitional Administrator from a list of three (3) journalists of the public radio service elected among themselves.

(10) The Chairperson of the Board of Directors shall be appointed by the Transitional Administrator from among the members of the Board of Directors.

(11) Decisions of the Board of Directors shall be taken by simple majority of the members present and voting, after establishing the necessary quorum of three (3) members.

Section 8 Managing Director

(1) The Board of Directors shall appoint the Managing Director of the Public Broadcasting Service and he or she shall not be a member of the Board of Directors.

(2) The person appointed as Managing Director shall possess qualifications, expertise or experience in the area of management and broadcasting.

(3) The Managing Director shall be responsible for the day-to-day management of the Public Broadcasting Service and, along with his or her editorial staff, shall be responsible for the editorial policy of the Public Broadcasting Service.

Section 9 Conduct and term of office

(1) All members of the Board of Directors shall be independent and impartial in the exercise of their functions.

(2) The initial term of the members of the Board of Directors shall be a two-year (2) term. Thereafter, each member of the Board shall be appointed for a term of three (3) years. A term of appointment as a Board member shall be renewable no more than once.

(3) A person shall not serve as a member of the Board of Directors who :

- (a) is employed in the public service of East Timor;
- (b) is an official of a political party or holds public office; or
- (c) has significant financial interests in telecommunications or broadcasting in East Timor.

(4) Notwithstanding the provisions of Section 8 (3), a person shall be eligible for appointment to the Board of Directors if such person resigns from the public service or political or public office referred to in paragraphs (a) or (b) respectively or divests himself or herself of the relevant financial interest in accordance with the law.

(5) A finding that a member of the Board of Directors has contravened the provisions of Subsection (3) herein shall be made by a duly constituted meeting of the Board of Directors and may be subject to judicial review before the Dili District Court.

(6) Where a member contravenes the provisions of Subsection (3) herein his or her membership of the Board of Directors shall be automatically terminated with immediate effect.

(7) If not provided otherwise in the present Regulation, the terms and conditions of membership of the Board of Directors and of the staff of the Broadcasting Service shall be prescribed by directive.

Section 10 Disclosure of Conflicting Interests

(1) A Director shall not vote at, attend or in any other manner participate in the proceedings at any meeting or hearing of the Board if in relation to any matter before the Board, he or she has any interest which may preclude him or her from performing his or her functions as a Director in a fair, unbiased and proper manner.

(2) If at any stage during the course of any proceedings before the Board there is reason to believe that a Director has any interest contemplated in Subsection (1) herein:

(a) that Director shall forthwith and fully disclose the nature of his or her interest and leave the meeting or hearing in question so as to enable the remaining Directors to discuss the matter and determine whether that Director is to be precluded from participating in such proceedings by reason of a conflict of interests; and

(b) such disclosure and the decision taken by the remaining Directors regarding such determination, shall be recorded in the minutes of the proceedings in question.

Section 11
Removal of Director from Board

Notwithstanding Section 8, a Director shall be removed from the Board by the Transitional Administrator on account of:

- (a) conviction, subsequent to appointment, for a criminal offence; other than:
 - (i) a criminal offence committed without deliberate intent, and
 - (ii) carrying a penalty of imprisonment of less than one year.
- (b) absence from three consecutive meetings of the Board, except on good cause shown.

Section 12
Funding and Remuneration

(1) The Transitional Administrator shall provide the necessary technical support to enable the Public Broadcasting Service to start its operations and to serve effectively the public interest.

(2) The Directors and the Managing Director of the Public Broadcasting Service, appointed under Sections 7 and 8 of the present Regulation, shall be remunerated in accordance with an UNTAET directive.

Section 13
Budget

(1) The sources of revenue for the Annual Budget of the Public Broadcasting Service may include public donation, commercial revenues, user fees as well as funding from the East Timor Consolidated Budget in accordance with budget processes as provided in UNTAET Regulation No. 2000/20 on Budget and Financial Management. The Annual Budget proposal will be submitted by the Board of Directors to the Government for financial support.

(2) To safeguard editorial independence, the Board of Directors will determine whether quota on commercial revenues is required, and if so, shall publish the percentage of commercial revenue to the total budget.

(3) The operating cost of the Public Broadcasting Service and the salaries of the Managing Director and staff shall be covered by the Annual Budget of the Public Broadcasting Service.

Section 14
Assets

The Public Broadcasting Service shall have such assets as may be necessary to enable it to operate in accordance with the present Regulation.

Section 15
Transparency

In order to ensure transparency in its operations and to improve its service in the public interest, the Public Broadcasting Service shall, as appropriate, hold public hearings and seminars, and, on occasions, open its operations to the general public.

Section 16
Annual Report

- (1) The Public Broadcasting Service shall issue each year a report on its activities and detailed accounts not later than three (3) months after the end of each fiscal year.
- (2) The Annual Report shall be published in the Official Gazette of East Timor.
- (3) The Annual Report shall include the following:
 - (a) a statement of the accounts of the Public Broadcasting Service, including the auditor's report;
 - (b) the proposed budget of the Public Broadcasting Service for the following year;
 - (c) information relating to the finances and administration of the Public Broadcasting Service;
 - (d) the objectives of the Public Broadcasting Service and the extent to which they have been met during the fiscal year concerned;
 - (e) the editorial standards of the Public Broadcasting Service;
 - (f) research undertaken by the Public Broadcasting Service;
 - (g) an analysis of the programming of the Public Broadcasting Service;
 - (h) information on complaints by the public in relation to the Public Broadcasting Service.
- (4) The Annual Report shall be presented to the Government and to the Constituent Assembly.

Section 17
Entry into force

The present Regulation shall enter into force upon signature.

Sergio Vieira de Mello
Transitional Administrator