

Executive Decree No. 01-396 of 24 Ramadhan 1422, corresponding to December 9, concerning regulation of activities involving the manufacture and distribution of tobacco.

Article 1:

The purpose of this Decree is to regulate activities involving the manufacture and distribution of tobacco.

Article 2:

The status of tobacco manufacturer is restricted to juridical persons with the status of corporations whose stock is made up of at least 51% public funds.

Article 3:

Tobacco manufacturers must be organized in a partnership. Partnership should be understood to indicate a share in company ownership held by at least one shareholder engaged in exploitation of a brand of international renown.

The status of engaging in exploitation of brands of international renown is not required for manufacturers of snuff and chewing tobacco.

Article 4:

Engaging in activities of tobacco manufacturing is contingent upon issuance by the authority regulating the market for tobacco and tobacco products of a license pursuant to signing of the terms of reference by the applicant following the requirements of the template attached hereto in the annex.

The license is to be issued within 30 days following signing of the terms of reference.

The license is exclusive of all other arrangements, unless expressly stated otherwise.

It may be revoked in the event of violation of the legislative or regulatory provisions in force, or failure to comply with the signed undertakings associated with the activity.

However, revocation cannot be pronounced except following a period of one month subsequent to notification of the manufacturer.

Article 5:

Tobacco manufacturers can also be licensed as distributors. The conduct of this activity can be undertaken through an affiliate established for such purpose.

Article 6:

Apart from manufacturers, only natural persons of Algerian nationality residing in Algeria, or companies whose partners or shareholders are of Algerian nationality and residing in Algeria can be licensed as tobacco distributors.

Article 7:

The licensing of tobacco distributors is contingent upon the signing of the terms of reference.

Article 8:

Duly licensed tobacco manufacturers must assume the role of bonded warehouse managers during the phase of production, as far as the purchase of raw tobacco leaf is concerned, whether cut or packed.

The bonded warehouse status confers the authorization granted to manufacturers to store tobacco products without having to pay tax on them in advance.

Article 9:

In addition to the indications set forth in the declaration of profession noted in Article 4 of the Code of Indirect Taxation, the following things must also be indicated:

- a list along with technical specifications of equipment to be used in the processing of tobacco, as well as its mode of operation;
- the models to be adopted for boxes, cases, pouches or packs, their shape, dimensions, as well as the nature and weight of the pouches or packs, their shape, their dimensions, as well as the nature and weight of the tobacco or the number of cigarettes/cigars that they will hold;
- the factory schedule, in terms of working hours and days.

Article 10:

Any internal communication between the site or sites constituting the factories and warehouses and other locations, whether or not they are occupied by the manufacturer, is prohibited.

Doors and windows directly giving onto public thoroughfares or neighboring properties must be equipped with appropriate locks so as to prevent any kind of removal of materials.

The fiscal authorities may, moreover, require the factory and its outbuildings to have only one commonly opened entranceway, and for others to be sealed and closed with two locks, with the keys to one of the locks to be entrusted to the fiscal authorities.

Article 11:

Without impairment to special provisions concerning preventive health measures, each box, case, pouch or pack must have printed on the packaging itself, the net weight of the tobacco or the number of cigarettes or cigars, as well as, for tobacco intended for sale on the market, the express statement, "For Sale in Algeria," followed by indication of the regulatory authority.

Article 12:

Boxes, cases, pouches, or packs must be kept in a special location under lock and key.

Manufacturers are required to place boxes, cases, pouches or packs set aside for export or shipment to other factories with transfer of tax credit in a separate storage area within the same facility, or in another location under lock and key. If these boxes, cases, pouches or packs are subject to packaging by lot, such packaging must display the words, "For Export" or "Shipped under bonded warehouse regime."

Article 13:

The same applies to products intended to be placed on the market, as to products intended for transfer of tax credit or for export: the boxes, cases, pouches or packs must be arranged in their respective storage areas by category of weight so as to facilitate the taking of inventory of manufactured products.

When inventory is taken, declarations of remnants are to be made by the purpose and nature of products.

Declaration of materials in the process of manufacture being held in workshops when such operations are conducted is to be done by assessing the weight of such materials at normal moisture levels for dried tobacco leaf.

Article 14:

Three inventories must be kept by manufacturers:

- leaf tobacco and raw materials;
- materials in process;
- finished products.

The above inventories are to be kept separately for smoking tobacco and snuff and chewing tobacco.

Article 15:

The inventory of leaf tobacco and raw materials shall consist of the following:

- the amounts registered in the first inventory or remaining at the previous inventory closing comprising the remnants thereof;
- the amounts received;
- surpluses registered when inventory is taken.

It is not required to keep track of:

- amounts delivered for manufacture;
- amounts accepted as exempt under the conditions indicated in Article 31 of the Code of Indirect Taxation;
- shortfalls registered when inventory is taken.

Article 16:

The inventory for manufacturing materials must include the following:

- the amounts registered in the first inventory or remaining at the previous inventory closing comprising the remnants thereof;
- amounts delivered for processing by the bonded warehouse of the factory;
- amounts coming from outside;
- surpluses registered when inventory is taken;
- amounts delivered for processing.

It is not required to keep track of:

- amounts that have been processed, placed in boxes, cases, pouches or packs, whether they are to be placed on the market for sale, routed for export or sent to other factories;
- amounts assigned for disposal, whether after destruction performed in the presence of revenue agents, or due to implementation of the provisions of Article 31 of the Code of Indirect Taxation. The aforesaid assignments for disposal apply to weight at normal moisture conditions for dry tobacco leaf;
- shortfalls registered when inventory is taken.

Article 17:

The inventory of manufactured products is to be stated in net weight of tobacco:

- amounts registered in the first inventory or remaining at the previous inventory closing comprising the remnants thereof;
- amounts that have been processed, placed in boxes, cases, pouches or packs, whether they are to be placed on the market for sale, routed for export or sent to other factories;
- amounts coming from outside;
- surpluses registered when inventory is taken.

It is not required to keep track of:

- amounts delivered to distributors of tobacco products;
- amounts shipped for export or to other factories;

- amounts accepted as exempt under the conditions indicated in Article 31 of the Code of Indirect Taxation, or re-entered in the property inventory of materials in processing to be placed back in operations;
- shortfalls registered when inventory is taken.

Article 18:

On a weekly basis, tobacco manufacturers must enter in the registers indicated in article 10 of the Code of Indirect Taxation the amounts of raw tobacco in processing, on one hand, and on the other hand, the amounts processed and placed into boxes, cases, pouches or packs.

However, when revenue agents come to conduct inspections of inventory, tobacco manufacturers must make the entries indicated in the foregoing paragraph whenever they are requested to do so.

Article 19:

The inventories indicated above are to be definitively closed, balanced and settled each year from July 1st through July 31st.

Article 20:

Shortfalls are not settled except when administrative orders are issued at the end of the year or seasonally, that is, on July 1st, or in the event of inventory closure.

However, if at times other than those thus determined, shortfalls registered exceed 5% of stock, taking into account supplementary and one-time deductions indicated in Article 295 of the Code of Indirect Taxation, any surplus of shortfalls is to be immediately and definitively taxable.

Article 21:

If surpluses registered for the inventory of tobacco leaf and raw materials exceed 5% of the amounts that have been held in storage in the deposit since the previous inventory, only the surplus is subject to confiscation. The same is true of surpluses in the manufacturing inventory.

As far as snuff and chewing tobacco are concerned, in powder or grains, surpluses in the manufacturing inventory are not subject to confiscation; they are simply to be added to stock.

Article 22:

Boxes, cases, pouches or packs whose net weight in tobacco exceeds the weight applied as the tax base in amounts greater than 13% for cigars, 9% for cigarettes and 6% for other manufactured products are subject to confiscation.

Article 23:

Tobacco manufacturers must make available to distributors of tobacco products, all of the brands and types of tobacco processed or imported that are to be put on the market.

Article 24:

Tobacco manufacturers must send a statement of sales for the previous month to the office of taxation of the territorially competent administrative district in the first ten days of each month, including the following:

- first and last name (s), address, registration number in the commercial registry and tax identification number of each client,
- the number of boxes, cases, pouches or packs, by type and brand of tobacco delivered to each client.

Article 25:

Distributors must keep a property inventory of tobacco products at each distribution center.

This inventory is to be stated in net weight of tobacco:

- the amounts registered in the first inventory or remaining at the previous inventory closing comprising the remnants thereof;
- those acquired from manufacturers or coming from another distribution center;
- surpluses registered when inventory is taken.

It is not required to keep track of:

- amounts sold to retailers or shipped to another distribution center;
- amounts accepted as exempt under the conditions indicated in Article 31 of the Code of Indirect Taxation;
- shortfalls registered when inventory is taken.

This inventory is to be definitively closed, balanced and settled each year on December 31st.

Article 26:

Tobacco distributors must make available to tobacco retailers duly licensed by the tax authorities all of the brands and types of tobacco intended to be put on the market.

The list of tobacco retailers is to be made available to distributors by the administrator of taxation of the territorially competent administrative district.

Lists of modifications can be sent to distributors in the same fashion.

On a temporary basis, tobacco retailers endowed with a purchasing card issued by the National Company of Tobacco and Matches (*société nationale des tabacs et allumettes*) may order their supply from distributors up until June 30, 2002.

Article 27:

At the end of each quarter, tobacco distributors must submit a list of clients, including:

- first and last name (s), address, registration number in the commercial registry and tax identification number of each client,
- the number of boxes, cases, pouches or packs, by type and brand of tobacco delivered to each client.

Article 28:

Manufacturers that are also licensed as distributors must have separate premises for each activity.

Transfer of tobacco products to distribution sites is considered to be placement on the market and incurs the payment of fees and taxes due.

Article 29:

The price for tobacco products is uniform for the entire national territory and is freely determined by manufacturers. It is applicable as of the moment of its publication by joint administrative order of the Minister of Finance and the Minister of Commerce.

Article 30:

Only tobacco manufacturers can import leaf tobacco, whether cut or packed.

Article 31:

Only tobacco manufacturers can import processed tobacco.

Importation of this sort can only involve brands sold by the manufacturer within the limits, schedules and amounts determined by the regulatory authority.

Article 32:

Boxes, cases, pouches or packs of imported tobacco must satisfy the conditions for placement on the market, particularly those enunciated in the provisions of Article 11 of this Decree.

Article 33:

For every importation, tobacco manufacturers are required to submit a statement of delivery to the territorially competent office of tax inspection within a period of 48 hours of the arrival of the products.

The office of tax inspection has a period of 48 hours counting from the receipt of the statement of delivery to conduct a review of the amounts received.

Upon expiration of this period, tobacco manufacturers may freely dispose of the imported products.

Article 34:

For the manufacture of tobacco products, only healthy tobacco leaf can be used, free of all infestations of insect larvae.

The growing or importation of different kinds of tobacco can be prohibited. A joint administrative order of the Minister of Finances, of Health and of Agriculture shall determine the list of varieties in question, should the need arise.

Article 35:

Substances allowed in the processing of tobacco and the content of toxic products, additives such as aromatic substances, moistening agents, products for whitening ash and combustion accelerators, preservative agents and authorized adhesives and binders are to be determined by a joint administrative order of the Minister of Finance, the Minister of Health and the Minister of Industry.

Article 36:

Tar and nicotine content per cigarette as measured by standards ISO 4387 and 3400, or as approved by the World Health Organization, must not exceed the levels set by a joint administrative order of the Minister of Finance, the Minister of Health and the Minister of Industry.

The accuracy of the statements displayed on packs is to be verified in accordance with standard ISO 8243.

Article 37:

In addition to the requirements of Article 11 of this Decree, boxes, cases, pouches or packs of tobacco must display on the lateral portion of the pack, in national languages and in French, in plainly legible characters on a contrasting background, and within a frame:

- tar and nicotine content;
- the prohibition of sale to minors;
- the general warning, "tobacco consumption is harmful to your health;"
- and for packs of cigarettes, a specific supplementary warning issued by the Ministry of Health.

Unofficial Translation

The specific supplementary warning indicated above must cover 15% of each large surface of the pack, and exhibit one of the following warnings:

- smoking causes cancer;
- smoking causes cardio-vascular disease;
- smoking is harmful to your lungs;
- smoking weakens you;
- smoking is harmful to the people around you.

The use of the warnings must be made on an alternating basis.

The list of warnings may be supplemented, should the need arise, by a joint administrative order of the Minister of Finance and the Minister of Health.

Article 38:

Boxes, cases or pouches containing snuff or chewing tobacco must exhibit in national languages and French, in plainly legible characters, the aforementioned requirements:

- the general warning, "tobacco consumption is harmful to your health;"
- the statements indicated in Article 11 of this Decree;
- the prohibition of sale to minors.

The requirements set forth above are to be displayed on an adhesive stamp that must be prominently affixed on boxes, cases or pouches.

Article 39:

Pending implementation by the regulatory authority of the market for tobacco and tobacco products, within the bureau of taxation a central structure is hereby created for regulation and oversight of the tobacco market whose organization is to be set by executive decree.

Article 40:

This Decree is to be published in the Official Journal (*Journal officiel de la République algérienne démocratique et populaire*).

Done in Algiers, on 24 Ramadhan 1422, corresponding to December 9, 2001

Ali BENFLIS