

## Justification Note

This revision fits into the need to update the current Foreign Trade Juridical Regime approved by Decree-Law No. 51/2003, of 24 November, (rectified in O.B. No. 9, I Series of 22/03/2004), seeking its conformity with the “Agreement on the Procedures for the Matter of Importation Licensing” from the World Trade Organization – WTO, in the framework of our Country’s accession to the World Trade Organization – WTO.

It fits, likewise, in the need to update this legislation into other WTO agreements, in the matter of Foreign Trade Procedures, specifically pertaining to administrative authorization procedures, licensing and registration of foreign trade operations, as well as other aspects connected to the terminologies and norms in effect internationally, by the multilateral trade system to which we are connected.

In this particular, it proposes the amplification of the importation and exportation licensing process, adapting an *a posteriori* system of control of the commercial administration, with the requests presented directly to the General Directorate of Customs.

It proposes, likewise, the elimination of the TCE, with the procedures for the registration of the foreign trade operation and their control being regulated by Ordinance from the members of the Government responsible for Commerce and for Finance.

**DRAFT LEGISLATION**  
**JURIDICAL REGIME OF FOREIGN TRADE**

**DECREE-LAW No.... /2005**

**of .... of...../2005**

In as much as, in the framework of Cape Verde accession to the World Trade Organization there is a need to update the current Juridical Regime of Foreign Trade approved by Decree/Law 51/2003, of 24 November, rectified in O.B. No.9, I Series of 22/03/2004), seeking its conformity with the “Agreement on Procedures on the Matter of Importation Licensing” of the World Trade Organization – WTO.

Considering likewise the need to update this legislation to other WTO agreements on the matter of foreign trade procedures, specifically on the matter

- c) **Importation for Consumption** – the customs regime that permits the goods to be placed in free circulation in the customs territory on the occasion of the payment of the duties and fees eventually payable on the importation and the compliance with all the necessary formalities;
- d) **Temporary Importation** – the economic customs regime that permits, under certain conditions, to import with total or partial exemption of duties, goods destined to remain temporarily in the customs territory and to be re-exported after a specific period;
- e) **Reexportation** – the operation of exit from a customs territory, of goods that entered under the regime of temporary or definitive importation or that were kept therein, from their arrival to their departure, under customs supervision, in warehouses and customs clearing areas or in storage stations under customs regime;
- f)

- k) **Restrictive Regimes** – the regimes that impose restrictions on foreign trade freedom, obligatorily defined as such by law, that are submitted to prior licensing for the realization of operations otherwise prohibited, conditioned and subjected to contingencies.
- l) **Technical Control** – verification of the technical specifications and of the “standard” qualities of the goods, in accordance with legal and contractual criteria, national or international, and the usual trade practices;
- m) **Importation License** – administrative procedures utilized for the application of importation licensing regimes that require as prior condition for importation in Cape Verde’s customs territory the presentation to a competent administrative organ of a request or other

**CHAPTER II**  
**Of the Licensing of the Importations**

**Article 3**  
**Administrative System**

1. The administrative system of the importations includes the following modalities:

- a) Importations subject to automatic licensing;
- b) Operations subject to non-automatic licensing;
- c) Importations exempt from licensing:
  - i) **Automatic importation license**- importation licenses granted in all cases, following the presentation of a request and administered in conformity with the following requisites:
    - o Equality of rights to all persons, companies and institutions, that meet the legal conditions imposed to execute the importation operation, to solicit and obtain importation license;
    - o Possibility of presenting the license request in any workday prior to clearing the goods from customs;
    - o The requests presented adequately and completely are deferred immediately after they are received, and it is administratively possible and in any case, within a maximum of 10 workdays.
  - ii) **Non-automatic importation license**- importation licenses not covered by the provisions of the preceding subparagraph, and the requests that are presented in an adequate and complete form should be deferred in a maximum of 22 workdays.

**Article 4**  
**Licensing Exemptions**

1. The following are exempt from licensing:

- a) The importation of goods without commercial value, whose value does not exceed an amount to be defined by ordinance of the government member responsible for the area of trade
- b) The active and passive improvement operations, of temporary importation, reimportation in the state, reexportation and f transit;

- c) The importations of goods subject to the following special customs regimes in the modalities of franc stores, cautioned storage, franc deposit and special customs storage;
- d)

- a) The products are subject to sanitary, environmental or safety certificates;
  - b) The products subject to mandatory restrictions, defined by law;
  - c) The products subject to prior authorization.
2. The importations referred to in the preceding No. 1 should be accompanied by the respective authorizations from the competent entities.

### **Article 8 Becoming Effective**

1. The automatic licensing shall become effective in the act of presentation of the request to the General Directorate of Customs, should the same be presented in an adequate and complete manner.
2. The non-automatic license shall become effective within a maximum of 22 days, counting from the requests are presented to the General Directorate of Customs, should the same be presented in an adequate and complete manner.
3. The period referred to in the preceding number can be exceeded only when it is impossible to comply with it for reasons beyond the control of the competent organs intervening in the licensing.

2. In the case of non-automatic importation, the respective competent entities should grant their prior authorization.

**Article 11**  
**Exemption of Emoluments**



**CHAPTER VI**  
**Foreign Trade Customs Regime**

**Article 15**  
**Customs Clearing**

Without prejudice to the general and special legislation in effect on customs practices and procedures, the goods can clear customs only after the formalities foreseen in this legislation are complied with.

**Article 16**  
**Validity of the Authorizations**

1. The validity period for the authorization is one (1) year, counting from the date of the declaration.
2. In special cases, the General Directorate of Commerce may fix validity periods different from those in the preceding number.
3. In duly justified situations, the General Directorate of Commerce may, likewise, authorize the prorogation of the period fixed under the terms of nos. 1 and 2 above, for a period not greater than one (1) year.

**CHAPTER VII**  
**Final and Transitory Dispositions**

**Article 17**  
**Foreign Trade Title - TCE**

The Foreign Trade Titles, emitted under the provisions of Decree-Law No. 51/2003, of 24 November, continue in effect until the end of their validity period.

**Article 18**  
**Infractions and Penalties**

2.

4. Without prejudice to the application of other sanctions indicated in the Law,