

Revision Proposal of Decree-Law nº 5/99,  
of 1 February 1999

(The commerce juridical regime)

Praia, December 2002

## Brief Explanatory Note

Decree-Law n° 5/99, of 1 February affirmed the commerce sector's juridical regime established by Decree-Law 195/85, of 6 December by introducing principles that are more consistent with the role of the private sector and of the State in the conduct of commercial activities. It made some adjustments of a juridical nature, in order to improve the performance of the various commercial operators intervening in the process, in a framework of discipline and clear, healthy competition. It also introduced adjustments in Public Administration, whose action shall follow the principles and rules contained in the Legislative Decree n° 18/97, of 10 November.

However, the referred diploma was never regulated, and as a result, in practice, some of its provisions were never adopted.

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Proposal, Decree-Law n°..../200..., de....

Decree-Law n° 5/99, of February, consecrated the profound mutations operated in the Country in the domain of commercial activity, reflecting the role reserved to both the private sector and State in commercial activities.

However, the referred diploma was never regulated and, as a result, some of its provisions never went into effect.

That legal text was published with many errors – which even made difficult the application of some of its norms - some of which were corrected in time. However, a new, errorless publication is now required, to introduce innovations in the delegation of powers to the entrepreneurial associations in the commerce sector or geographical area, the authorization validity period, the professional identification card and the fees due for services provided. Some juridical-formal improvements are also required.

This diploma will be followed-up by the publication of the respective regulation, which will conditions its effective date.

Under these terms,

Having heard the associations representative of the commerce sector;

In the use of the faculties conferred by paragraph a) of n° 2 of article 203 of the Constitution, the Government decrees the following:

Chapter I  
Of the general provisions

Article 1  
Object

This diploma defines the juridical regime of the commerce sector, regarding the exercise of the commercial activity by the role of the public powers.

Article 2  
Ambit

1. This diploma applies to singular persons, commercial enterprises, complementary groupings of enterprises and public enterprises that exercise some of the activities referred to in article 11.
2. Producers are subject to this diploma if they are also exporters, own an establishment or store for direct sale to the public or associate the commerce of products from other sources to the sale of their own products.

3. This diploma applies equally to managers of the entities referred to in n° 1, to representatives of the enterprises and to all who legally represent them in these functions and to the partners of the limited responsibility enterprises.
4. For the purpose of the preceding number, the following are considered managers: the managers, the managing partners, directors or administrators of commercial enterprises, as well as the managers of public enterprises.

## Chapter II Of the fundamental principles

### Article 3 Fundamental principles

The following principles govern the commerce sector:

- a) Free exercise of commercial activities, under the law;
- b) Sound competition among the commercial operators;
- c) Prevention and repression of speculation and restrictive commercial practices;
- d) Coexistence of public and private operators;
- e) Promotion and defense of the consumers;
- f) Safeguard and protection of the environment;
- g) Quality control and protection of public health;
- h) Respect for the international commitments.

### Article 4 Free exercise of commercial activities

1. It is recognized that all singular and collective persons, have the right to free exercise of commerce, under the terms and conditions and within the limitations established by law.
2. The government may reserve the exploration of certain commercial activities for the enterprise of the public or private sector, on a transitional basis. It will do so, whenever ponderous reasons of public interest and fundamental to the

## Article 6 Coexistence

1. In the exercise of commercial ~~act~~, the private sector, and in supplementary fashion, the ~~public~~ sector, shall coexist.
2. For the purpose of the preceding number, the following integrate:
  - a) The public sector, the public enterprises and the commercial enterprises of exclusive or majority public capital;
  - b) The private sector, the individual ~~enterprises~~, the commercial enterprises with majority or totally private capital. Also included are the consumption cooperatives ~~retailers~~ and the agricultural and industrial cooperatives ~~whose~~ objectives include the acquisition or sale, gross or ~~net~~ of materials and good necessary to its work, or products of its ~~own~~ activities, respectively.

## Article 7 Defense of the Consumer

1. In the definition of its general commercial policy, the Government includes as **objective** the promotion and defense of ~~consumer~~ interests, especially with regard to security in providing essential ~~goods~~, price setting and oversight. It also promotes the prevention and ~~control~~ of anti-economic infractions and infractions against public health.
2. For the purpose of the preceding numbers, the Government supports the creation and the development of ~~consumer~~ **defense** associations.

## Article 8 Quality control

1. The fundamental concern of the Government ~~in~~ the commercial policy is to assure a rigorous quality control of the ~~commercialized~~ products, whether of national production or imported, and whether ~~destined~~ for internal consumption or for export.
2. The inspection and quality control ~~measures~~ and protection to public health, and the forms of obtaining the respective certificates shall be regulated by **decree-law**.

## Article 9 Protection of the environment

In the definition of its general commercial policy, the Government shall pay particular attention to the consequences ~~of~~ that policy on the environment, in conformity with the principles of the Environmental Base Law and complementary legislation. Particular ~~attention~~ shall be given ~~to~~ the protection of the national patrimony, fauna and flora.

Article 10  
International commitments

The Government commercial policy ~~sets~~ for the integral respect for the international accords, treaties and ~~conventions~~ received in the Capeverdean juridical order.

Chapter III  
Of the commercial activities

Section I  
Types of commercial activities

Article 11  
Commercial activities

1. For the application of the legal ~~provisions~~ pertaining to the exercise of commercial activities, the following are considered commerce by wholesale and commerce by retail.
2. It is understood as:
  - a) Wholesale commerce, the activity ~~exercised~~ by every physical or collective person that, habitually ~~or~~ professionally, purchases merchandises in his/her own name ~~his~~/her account and resells them to other merchants who practice wholesale, or to retailers, or yet to transformers, professional users or large users;
  - b) Retail commerce activity, the activity ~~exercised~~ by every physical or collective person that, habitually ~~or~~ professionally, purchases merchandises in his/her own name ~~his~~/her account and resells them directly to the final consumer.
3. The purchase and sale of goods by ~~publicities~~, the military, public security forces, social assistance, education and public health entities, are not considered commerce ~~activities~~, if the goods are ~~destined~~ for consumption in the course of their respective ~~operations~~ or gratuitous distribution to needy persons or non-profit organizations.

Article 12  
Commerce activities by wholesale

1. The wholesale commerce activities ~~can be~~ exercised by the following agents:
  - a) Exporter, the agent that sells ~~nationa~~ nationalized ~~products~~ directly to the external market;
  - b) Importer: the agent that acquires directly in the external market, products destined to be commercialized ~~in~~ the national territory or for subsequent re-exportation;
  - c) Wholesale dealer or warehouse, ~~the agent~~ that acquires, in the internal market, products of national or ~~foreign~~ origin, and commercializes

them in wholesale to retailers, without effecting any sales to the public under any condition.

2. Not covered in subparagraph b) of this is the agent that directly imports products, raw material and equipment, uses them in work in his/her own factories, shops or establishments. It also incorporates the imports in products of his/her own production, transformation or fabrication.
3. When the wholesale commerce activity is exercised in non-sedentary fashion, it shall be governed by special diploma (DGCC).
4. For the purpose of the preceding number, non-sedentary commerce is understood to be that for which the presence of a dealer in the sales places is not of a fix or permanent character.

### Article 13 Retail commerce

1. Retail commerce activity can be exercised by the following agents:
  - a) Retailer, the agent who exercises retail commerce in sedentary fashion, in an establishment, store or installation fixed to the ground in a stable manner under covered markets;
  - b) Ambulatory salesperson, the agent that exercises retail commerce in non-sedentary fashion, through the places where he/she transits or in zones especially designated to them;
  - c) Fair-Merchant, the agent that exercises retail commerce in non-sedentary fashion in uncovered markets in installations not fixed to the ground in a stable manner under uncovered markets habitually designated fair-markets.
  - d) Dealer, the agent that sells the products of his/her commerce in regular or irregular fashion, without having an organic structure or an adequate commercial establishment and is not included in any of the types of activities previously mentioned.
2. Automatic sales and final sale to the consumer by catalogue, by correspondence or to the domicile are considered retail sales. The existence of a structure or organization adequate to the nature of the respective activity is mandatory.

### Article 14 Commercial agent

A commercial agent is the physical or collective person who does not integrate any of the categories previously defined, but possesses a commercial organization, practice, an habitual and professional title, but does not effect sales directly to the public.

Article 15  
Classification of products

The classification of the products to be commercialized by th



Article 20  
Suppressions and accumulations to wholesalers

1. Accumulation of the wholesaler or warehouse activities with those of a fair-merchant, ambulatory salesman or dealer is suppressed.
2. With the necessary adaptations, the provisions on n° 3 of article 18 apply to the retailer.

Article 21  
Suppressions and accumulations for retailers

Accumulation of the retailer activities with those of a fair-merchant, ambulatory salesperson or dealer is suppressed.

Article 22  
Suppressions and accumulations for the ambulatory salesperson

1. The accumulation of the ambulatory salesperson's own activities with those of importer, exporter, wholesaler, retailer or commercial agent is suppressed.
2. The accumulation of the ambulatory salesperson's activities with those of a fair-merchant are regulated, in each municipality, by the respective municipal office.

Article 23  
Suppressions and accumulations for the fair-merchant

1. The accumulation of the fair-merchant activities with those of the importer, exporter, wholesaler, retailer or commercial agent is suppressed.
2. The accumulation of the fair-merchant activities is regulated, in each municipality, by the respective municipal office.

Article 24  
Suppression and accumulation for the dealer

1. The accumulation of the dealer's activities with that of importer, exporter, wholesaler, retailer or commercial agent is suppressed.
2. The commerce of products comprised in specific lists to be established by decree of the Government member responsible for the area of commerce (DGCC) is suppressed to the dealer.

Article 25  
Suppression and accumulations to the commercial agent

The accumulation of the commercial agent's activities with those of retailer, fair-merchant, ambulatory salesperson or dealer is suppressed.

Section II  
Places for the exercise of commerce

Article 26  
Places for the exercise of commerce

1. The places for the exercise of commerce are classified as:
  - a) Commercial establishments;
  - b) Markets;
  - c) Sales on the public way;
  - d) Large commercial surfaces.
  
2. For the purpose of subparagraph a) of 1, commercial establishment is understood to be any installation of a fixed and permanent character where one or more commercial activities are exercised exclusively or principally, in an habitual and professional manner, wholesale or retail, as they are defined in nº 2 of article 11, as long as the legal and regulatory requisites are fulfilled:
  - a) Stores, the group of structures organized for the exercise of retail commerce or similar, whatever the class or classes of products, and further, that integrate simple warehouses;
  - b) General warehouses, the group from organic structure destined exclusively to the wholesale commerce, whatever the class or classes of products;
  - c) Commercial centers, the complexes of establishments that conglomerate in the same physical structure and organic units of independent stores that practice retail commerce for different classes of products.
  
3. As long as they fulfill the legal and regulatory requisites, the following are considered markets:
  - a) Municipal markets, the infra-structures destined by the municipal authorities to gather products or simple intermediaries of the same for the purpose of commercializing products, additionally destined for the provisionment of the consuming public, name the produce or other foods;
  - b) Fairs, places destined for the periodic or seasonal meetings of merchants, or farmers, or industrials, alone, or of the ones and the others jointly, under regulatory terms, to expose their offerings of goods from their commerce or from their production.
  
4. Sales in the public way are considered to be, places, infrastructured or not by the municipal authorities, destined indicated by them for the exercise of commerce by ambulatory sales people.
  
5. Store-similar are, the restaurants, hotels, pastry shops, bars, taverns and similars, for the purpose of retail commerce of their products, if the contrary does not result from prior authorization, and save for special, specific legislation from the tourism sector.

6. Large commercial surfaces are the structures for retail or wholesale commerce with a useful commercial surface no smaller than 1,500 m<sup>2</sup>. Useful commercial surface is considered to be that which is destined for sales and is accessible to the public or to buyers.

#### Chapter IV

#### Of the role of the public authorities in the commercial activity

##### Section I

##### General dispositions

##### Article 27

##### Ambit of the intervention

1. The public authorities shall limit their participation in commercial activities to the regulation of market mechanisms to assure free and loyal competition among the economic agents and to safeguard the diffused interests of singular and collective persons.
2. Exceptionally, the public authorities may intervene directly or indirectly in the commercial activity. They will so act when the interests of the economy so dictate, to guarantee public provision, fix prices in certain essential goods and the performance of public-sector commercial enterprises, in accordance with the present diploma and its regulations.

##### Article 28

##### Intervention entities

1. The intervention of the public authorities in the commerce sector shall be done, specifically, through:
  - a) accessible used inte

Section II  
Prior authorization of the commercial activity

Article 29  
Prior authorization

1. The exercise of any of the activities indicated in the articles 12, 13 and 14 requires prior authorization from the highest official of the government department responsible for the commerce sector, or the respective municipality. Which entity will intervene will depend on whether the activity in question is in wholesale commerce of a commercial agent or retail commerce activity, respectively.
2. Coordination or planning of the entire process to grant prior authority, referred to in the preceding number, is the responsibility of the highest official responsible for the commerce sector. It may also be the responsibility of the Municipal President of the municipality where the activity is to be exercised, if the respective certificate is emitted by the municipality.
3. The prior authorization shall be granted without prejudice to the rules pertaining to accumulations and suspensions foreseen in articles 17 and following, for the exercise of one or more activities referred to in articles 12, 13 and 14. Each authorization shall comply with the sections pertaining to the products under consideration.
- 4.

4. In the exercise of the competences delegated under nº 2, the entrepreneurial association of the respective sector or geographical area is duty-bound to provide services to all commercial agents in its territorial area, whether they are associates therein or not.

### Article 31 Request to exercise the activity

Requests to exercise the activity are submitted to the governmental Department responsible for the commerce sector, or the respective municipal services. Or, should there be delegation of competences [ the terms of nº 2 of the preceding article, to the entrepreneurial association of the respective sector or geographical area.

### Article 32 Validity

1. The authorization referred to in article 29 is valid for one year and is renewable for an equal period, upon request.
2. The renewal request referred to in the preceding number [ shall be submitted to the services referred to in article 31, accompanied by the corresponding certificate and the document proving compliance with the fiscal obligations, inherent in the ending exercise.

### Article 33 General requisites for prior authorization

1. Following are the general requisites for granting the prior authorization referred to in article 29:
  - a) Having financial capacity, [ the terms of the commercial legislation;
  - b) Not being inhibited from the exercise of commerce for bankruptcy or insolvency, as long as the inhibition is not lifted or the rehabilitation survived;
  - c) Not having been condemned, in the last 5 years, by sentence having transited in judgement with effective prison term for fraudulent crime against property, except if rehabilitation has taken place;
  - d) Not having been condemned, in the last 5 years, by sentence having transited in judgement with effective prison term for fraud against public health or the national economy, except if rehabilitation has taken place;
  - e) Not having been condemned, in the last 5 years, for the practice of illegal competition, except if rehabilitation has taken place;
  - f) Having as minimum schooling, the 4<sup>th</sup> grade;
  - g) In the event of collective person, effective registration or proof that conditions are met to effect such registration with the competent agencies.
  - h) Have warehouses adequate for the type of activities for which prior authorization is solicited.

i) Have complied with the fiscal obligations.

2- The requisite referred to in subparagraph f) of the preceding number is

## Article 35 Inspection

1. To grant the prior authorization referred to in article 29, the commercial wholesale or retail food products establishments shall be inspected by a commission. The commission shall be constituted by a representative of the municipality, who will preside, and representatives of the health Delegate and of the government department responsible for the commerce sector. Or, should there be delegation of competence under the terms of nº 2 of the preceding article, the entrepreneurs' association of the respective sector or geographical area shall perform the inspection.
2. The inspection is carried out, under regulatory terms, in a maximum of 10 working days, counting from the date filing of the request referred to in article 31.
3. Whenever it is deemed convenient, the commission referred to in nº 1 may determine whether or not to subject the establishments mentioned in the preceding number to new inspections under regulatory terms.

e) Location and characteristic of the establishments/stores, the warehouses or offices, in the cases which the exercise of the activity presupposes its existence.

2. The request shall be documented with the following elements:

- a) Declaration from the requestor, with notarized signature, which shows that he/she is capable under civil law and that he/she is not inhibited from exercising commerce;
- b) Documented proof that he/she possesses the minimum mandatory schooling;
- c) Documented proof of the fiscal obligations;
- d) Certificate of criminal registration;
- e) Two pass-type photographs for each activity to be exercised;
- f) The decisions referred to in article 34 or proof that the conditions referred to in n° 4 and 5 of the same article are met.

3. When the prior authorization request has as object, the exercise of ambulatory salesperson or fair-merchant functions, the document referred to in subparagraph b) of the preceding number shall be dispensed with.

4. In all the cases of co-property, resulting from substitutions in the registrations either by the owner's death or the wishes of the interested parties, the individual proof elements referred to in n° 1 and the documents n° 2 must be presented, in addition to the common elements.

#### Article 37 Collective persons files

1. The prior request authorization for collective persons shall be addressed to the highest responsible official of the government department responsible for the commerce sector, or to the President of the Municipality, as the case may be.



- a) Registration note or certificate of commercial or cooperative definitive registration;
  - b) Documented proof of compliance with the fiscal obligations relative to the exercise of the previous year;
  - c) Decisions referred to in article 34 or proof that the conditions referred to in n° 4 and 5 of the same article are met.
3. The requests from managers, referred to in n° 4 of article 2 and the limited responsibility partners shall be

authorization, within 30 days, counting from the date the request is received, or they should notify the requestor to correct eventual deficiencies on the request or attached documentation.

2. The deadline fixed in the preceding number is suspended by the use of the faculty referred to in the final part of the same number or by executing the inspection referred to in article 35. The deadline counting resumes on the date the elements requested are received by the competent service or by the signature on an inspection report.
3. The notifications shall be made by registered mail to the address shown on the request or to the competent authorities that may have organized the prior authorization request. The notification is considered made the days after it is expedited.
4. The processes are considered null if the deficiencies referred to in the final part of nº 1 are not corrected within 180 days.

#### Article 40 Authorization certificate

1. If the request is approved the competent authority shall issue the certificate referred to in nº 2 of article 30. In the event of a delegation of competences referred to in article 29, the entrepreneurial association of the respective sector or geographical area shall issue the certificate.
2. If the decision to grant or deny the prior authorization certificate is not made within the deadline referred to in nº 1 and 2 of the preceding article, the requesting party is automatically authorized to exercise the activity. In such case, for all intent and purposes the date of the request, duly signed by the services where it was delivered to, shall serve as the certificate.

#### Article 41 Causes for revocation

1. The authorization to exercise commercial activity shall be revoked and the certificate apprehended:
  - a) When exercise of the activity does not begin within a minimum of one year after the prior authorization is granted, save for duly proven impediment;
  - b) By the death or interdiction that involves impossibility to exercise commerce, having elapsed the deadline referred to in article 45;
  - c) By the dissolution of the collective person;
  - d) To the entities referred to in nº 1 of article 2 when they lose that quality;
  - e) By the exercise of the commercial activity, when an inhibiting situation exists, bankruptcy having been declared;

- f) By voluntary closing of the establishment/store or warehouse for one year, save for impediment duly proven and taking into account the local characteristics for the exercise of commerce;
- g) By the transfer or any other form of gratuitous or onerous transmission of the property or the usufruct of the establishment/store or warehouse;
- h) By the effective exercise of the commercial activity by an entity different from the one inscribed in the respective registration;
- i) By the loss of the general requisites referred to in nº of article 33;
- j) By non-payment of the taxes due under the terms of article 47 for a period greater than two years.

2. The revocation referred to in subparagraph j) of the preceding number implies the non-concession of prior authorization for commercial activities in the next five years.

#### Article 42

##### Causes for suspension

1. The authorization to exercise the commercial activity shall be suspended for up to one year and the certificate appended, when one of the following situations occurs:
  - a) Condemnation on matters of security or interdiction of the exercise of any of the activities indicated in article 2 for the period of applicability of that measure;
  - b) Temporary cessation of usufruct or exploration of the establishment/store or warehouse for the period of cessation;
  - c) For lack of compliance with the fiscal obligations inherent in the exercise of the activity;
  - d) Exercise of an activity different from that inscribed, for as long as it takes to clarify the situation;
  - e) For non-payment of the taxes due under the terms of article 47;
2. Authorization to exercise commercial activity may be suspended for up to one year, at the express and fundamental request of the interested party, addressed to the Government department responsible for the commerce sector, or to the municipality, as these may be. If there is delegation of competences under the terms of nº2 article 30, the entrepreneurial association of the respective sector or geographical area, the request shall be addressed to that association.

#### Article 43

##### Communication in the cases of revocation or suspension of prior authorization

1. Whenever oversight agents have knowledge of any information that may constitute cause for revocation or suspension of a prior authorization, they must convey that information to the Government Department responsible for the commerce sector, or the municipality, within ten days. In the cases where there is delegation of competences under the terms of nº 2 of article 30, the

notification should go to the entrepreneurial association of the respective sector or geographical area.

2. The Economic Activities General Inspector and the competent entities that may have organized prior authorization

- 30, the entrepreneurial association of the respective sector or geographical area;
4. The deadline referred to in nº 1 may be prorogated for an equal period in case of duly proven impediment.

#### Article 46 Publicity of the authorizations granted

The government department responsible for the commerce sector, or the municipality, or, in case of delegation of competence under the terms of nº 2 of article 29, the entrepreneurial association of the respective sector or geographical area, shall publish the authorizations granted every six months. The list of authorizations is extrated information in the competent agencies of the central and municipal administration and the entire representatives of the commercial sector.

#### Article 47 Fees

1. To grant or renew the authorization to exercise commercial activity, to include a new section or sections of products the type or types of commercial activities comprised in the prior authorization or to provide any other services executed at the request of the interested parties fees or emoluments are due whose amounts shall be established in joint decrees of the members of the Government responsible for the areas of commerce and finances.
2. The fees referred to in the preceding item constitute revenue for the State or the municipality. Should there be delegation of competences under the terms of nº 2 of article 30, they constitute revenue for the entrepreneurial association of the respective sector or geographical area. The fees should be paid annually.
3. The fees that are not paid within the established deadline shall be incremented with late fees that shall constitute revenue for the State or the municipalities.

#### Article 48 Unofficial communications

The courts and other Public Administration services where acts are practiced that result in placing the owners of prior authorization for the exercise of the activity in any of the situations foreseen in articles 41 and 42, shall unofficially report such situations to the government Department responsible for the commerce sector, or to the municipality, or, should there be delegation of competences under the terms of number 2 of article 30, the entrepreneurial associations of the respective sector or geographical area.

## Article 49 Appeals

The decisions denying authorization for the exercise of commercial activity and, those that revoke or suspend such authorizations as well, can be appealed under the general terms.

## Article 50 Confirmation

The highest responsible official of the government department responsible for the commerce sector shall uphold the decisions of the entrepreneurial associations of the respective sector or geographical area and deny the authorization to exercise commercial activity. It shall also uphold the decisions to revoke or suspend such authorizations.

## Section III Special requests for prior authorization

### Subsection I Importer

## Article 51 Indication of the requisites

The import activity can be exercised only by the subjects that, aside from fulfilling the requisites of article 33, also fulfill the following special requisites:

- a) Have a minimum capital allocated to the commercial activity, whose amount shall be defined in decree of the member of the Government responsible for the commerce area, having heard the entrepreneurial associations;
- b) Own a warehouse adapted to the branch of commerce and volume of business and with other legal requisites;
- c) Have an organized accounting that conforms to the National Accounting Plan, under the responsibility of a suitable accounts technician.

## Article 52 Proof of the requisites

1. The proof of the requisites referred to subparagraph a) of the preceding article is shown by presenting a certificate of commercial registration, which indicates the capital available to the merchant under individual name or the commercial enterprise. It can also be shown by information pertaining to its financial capacity, provided by a credit, parabanking or other suitable institution, which indicates that the requestor can dispose of the minimum capital demanded.

2. Without prejudice to the provisions of article 34, the proof of the requisites referred to in subparagraph b) of the preceding article is shown by presenting a property title or other document that confers upon the requester the right to use or usufruct the warehouse for at least two years.
3. The proof of the requisites of subparagraph c) of the preceding article is shown by the presentation of :
  - a) 0 years.

Subsection IV  
Retailer

Article 55  
Indication and proof of requisites

1. The retail activity can be exercised ~~only~~ by the subject that, aside from the general requisites referred to ~~article~~ 33, fulfill the following special requisites:
  - a) Have a minimum capital allocated to the commercial activity whose amount shall be defined by decree ~~of the~~ member of the Government responsible for the area of commerce ~~having~~ hear the entrepreneurial associations and the Municipality;
  - b) Own an adequate store or establishment adapted to the branch of commerce and volume of business ~~and~~ with remaining legal requisites;
2. With the necessary adaptations, the ~~provisi~~ provisions of nº 1 to 3 of article 52 will apply ~~t~~ the proof of requisites ~~established~~ in the preceding numbers.

Subsection V  
Ambulatory sales

Article 56  
Ambulatory salespersons

Evolving from the provisions of subparagraph ~~of~~ article 13, all those that fit in the descriptions below are ~~considered~~ ambulatory salespersons:

- a) Those that transport the merchandise for their commerce, on themselves or by any adequate means, and sells them to the consuming public through the ~~places~~ where he/she transits;
- b) Sell the merchandise they transport ~~outside~~ the municipal markets or fixed locations, utilizing in the sale their ~~own~~ means or other means placed at their disposal by the municipality;
- c) Transport their merchandise in vehicles, effecting the respective sale in the same, whether by the places they transit through or in fixed locations, delimited by the competent municipality outside the market;
- d) Using automobiles or trailers, in ~~the~~ public way or in fixed locations, determined by the municipalities, ~~to~~ produce in them light meals or other edible products prepared in traditional fashion.

Article 57  
Exercise of ambulatory sales

1. The exercise of ambulatory sales is ~~for~~ ~~de~~ ~~to~~ commercial enterprises, their representatives and those who ~~exercise~~ ~~commercial~~ activities on account of others, and it cannot be ~~exercised~~ by an interposed person.



2. Following are exceptions in the ambit of ambulatory sales:
  - a) Distribution to the domicile carried out on account of a merchant with fixed establishment/store;
  - b) Sale of lotteries, newspapers and other periodic publications;
  - c) Direct sale of agricultural products by the respective producer, to a consumer in transit, in roadside locations or public ways.

#### Article 58

#### Products prohibited to ambulatory commerce

1. It is forbidden to do ambulatory sales products contained in a list to be approved by decree from the Government member responsible for the commerce sector.
- 2.

Article 61  
Hygienic-sanitary measures

1. In the transportation, arrangement, ~~expos~~ and storage of food products, it is mandatory to separate the food products according to their nature. Among each type of food, those that can, in any way, be affected by the proximity of the other, should also be separated.
2. When they are not exposed for sale, the food products must be saved in locations adequate to ~~th~~preservation of their ~~ate~~. Hygienic-sanitary conditions must be observed ~~that~~protect the food ~~pr~~oduct from dust, contamination or contacts that, ~~im~~away, may affect the health of the consumer.
3. Whenever so demanded, the seller ~~indic~~ate to the competent oversight officials, the location where the merchas~~es~~ are stored, and ~~fac~~ilitate the access to the location.
4. In packaging or ~~condi~~tioning food products, only ~~paper~~ other material not previously used can be used. ~~The~~ ~~paper~~ or other ~~mate~~rial cannot contain drawings, paintings or sayings ~~impr~~inted or written in the interior part.

Article 62

2. If spaces are available in the market referred to in the preceding number, but insufficient public provisionment is verified in these areas, the municipalities may fix locations or zones for the ambulatory commerce in the same areas. The limitations established in the preceding number shall apply.
3. The provisions of the preceding number shall not apply to the ambulatory sale of fish.

Article 64  
Ambulatory salesperson card

1. The ambulatory salesperson must be always carry with him/her a duly updated ambulatory salesperson card, for immediate presentation to the competent oversight entities.
2. The ambulatory salesperson card is valid for the area of the respective municipality and for the period of one year, counting from the date of emission or renewal.
3. The ambulatory salesperson card is personal and non-transmissible.
- 4.

having heard the syndicates, the entrepreneurial associations and the consumers associations.

2. When circumstances so justify, the government department responsible for the commercial sector shall also be heard.

Article 68  
Prohibition

Commercial activities in the fair and markets can be exercised only by fair-market participant card holder.

Article 69  
Specific competence of the municipalities

It behooves the municipalities, specifically:

- a)

Article 72  
Hygienic sanitary measures

1. In the transportation, arrangement, exposition and storage of the products, it is mandatory to separate food products according to their nature. Among each type of products, they must be separated from the proximity of the ones will effect the others.
2. When they are not exposed for sale, the food products must be saved in locations adequate to the preservation of their state. Hygienic-sanitary conditions must be observed that protect the food product from dust, contamination or contacts that, in any way, may affect the health of the consumer.
3. Whenever so demanded, the seller must indicate to the competent oversight officials, the location where the merchandise is stored, and facilitate the access to the location.
4. In packaging or conditioning food products, only paper or other material not previously used can be used. The paper or other material cannot contain drawings, paintings or sayings imprinted or written in the interior part.

Article 73  
Sanitation bulletin

1. The participants in the conditioning, transportation and sale of food products shall bear a mandatory sanitation bulletin, under the terms of the legislation in effect.
2. Whenever there is doubt regarding the state of sanitation of the seller or any other individual referred to in the preceding number, the same shall be summoned to present themselves to the competent sanitation authority for inspection.

Article 74  
Forbidden sales

It is forbidden to sell in the fairs and markets all the products whose specific legislation so determines.

Article 75  
Self production

Sale in the fairs and markets of ~~artifs~~ fruits, produce or any others self produced goods are subject to the provisions of this subsection.

Subsection VII  
Commercial agent

Article 76  
Indication of the requisites

1. The commercial agent activity is exercised by an agency or representation contract. When in the name of a foreign entity, it can be done only with importers.
2. The activity of commercial agent for imported products can only be exercised by agents that, aside from the general requisites foreseen in article 33, fulfill the following special requisites:
  - a) Be a singular or collective enterprise of Capeverdian nationality;
  - b) Be domiciled in Cape Verde;
  - c) Have an office adequate for attending clients;
  - d) Have an accounting system organized in conformity with the demands of the National Accounting Plan, under the responsibility of an adequate accounts technician.
3. Foreign enterprises may exercise the commercial agent activity in Cape Verde as long as it done through a branch, delegate or other form of representation that fulfills the following requisites:
  - a) Be matriculated in the cape-verdian commercial register;
  - b) Possess an office adequate to attend the public;
  - c) Have an accounting system organized in accordance with the National Accounting Plan, under the responsibility of a suitable accounts technician.

Article 77  
Proof of the requisites

1. Proof of the requisites referred to in subparagraphs a) and b) of n° 2 and subparagraph a) of number 3 of the preceding article, is shown through certificates issued by the competent entities.
2. With the necessary adaptations, the provisions of n° 2 and 3 of article 52 shall apply to the proof of requisites referred to in subparagraphs c) and d) of n° 2, of the preceding article. They shall also apply to the requisites of subparagraphs b) and c) of n° 3 of the preceding article.

Article 78  
Other conditions

1. The location of the commercial agent's office and the representations of which he is a titleholder must be annotated in the prior authorization, at the request of the interested party;
2. In the absence of the annotation, the representative shall incur in the sanctions for the type of commercial activity.

Section III  
Commercial establishment register

Article 79  
Commercial establishments register

1. The commercial establishments register referred to in nº2 of article 26 is hereby established, with the objective of assuring the knowledge of the commercial sector by identifying and characterizing the commercial establishments and the types of commerce they exercised.
2. The commercial register is centralized in the government department responsible for the commerce sector.

Article 80  
Facts subject to registration

The following facts are subject to registration in the commercial establishments register:

- a) The opening of a commercial establishment;
- b) The closing of a commercial establishment;
- c) Activities exercised in the commercial establishment and the respective alterations;
- d) Change of ownership of the commercial establishment;
- e) Alteration of the location of the commercial establishment or main office.

Article 81  
Information contents of the register

The contents of the commercial establishment register must include, the following elements, namely:

- a) The owners of the commercial establishments are identified by the name of the firm, location of the main office or domicile, juridical form and, whenever possible, the amount of social capital and the volume of imports or sales;
- b) The commercial establishments are identified, namely, by the location, type of activity exercised, from among the ones foreseen in articles 12 and 13, occupied area and sales method.

Article 82  
Prior authorization procedure in the register

Registration in the commercial establishment register is made unofficially:

- a) By the municipalities, regarding the retail commerce;
- b) By the government Department responsible for the commerce sector, in the cases of wholesale commerce of the commercial

agent, or, should there be delegati



Chapter V  
Of the infractions and oversight

Article 86  
Contra-ordinations

1. Infractions to the provisions of this diploma constitute contra-ordinations.
2. The exercise of any of the activities referred to in articles 2, 13 and 14 by entities that are not duly authorized or whose authorizations were suspended or revoked, is punishable with a fine of ecv 5000\$00 to 1000.000\$00.
3. Non-compliance with the provisions of n° 1 of article 45 is punishable with a fine of ecv 5000\$00 to 50.000\$00

Article 87  
Oversight competence

It is the competence of the Economic Activities General-Inspection, Labor General-Inspection, Public Order Police, Fiscal Police and the sanitary, administrative and fiscal authorities to promote the prevention and apply corrective action against infractions to the norms foreseen in this diploma. The same applies to the respective re

## Professional identification card

1. Without prejudice to the possession of prior authorization certificate, all the persons that exercise commercial activities must own a professional identification card. The card must be exhibited whenever the oversight agents solicit it, under the penalty of law.
2. The function of the professional identification card is to allow the persons who practice commerce that integrate legal types be easily identified, in any location or circumstances, as practicing an activity legally authorized. For example activities outside the respective establishment or location of a different nature from the habitual, such

The authorizations emitted under the cover of Decree-Law nº 135/85, of 6 December, shall remain valid with the due adaptations resulting from the adoption of this diploma, until they are substituted under the terms of the article that follows.

#### Article 95 Substitution of the license authorization

1. The license authorization emitted under the provisions of Decree-Law 135/85, of 6 December, shall be substituted with certificates that serve as proof of prior authorization at the request of the interested party. It should be remitted directly to the competent service or through the entrepreneurial association, accompanied by the following documents:
  - a) Previous license authorization;
  - b) Photocopy of documentation proving payment of the Sole Tax over Revenue or the non-attribution of collection in the year under consideration.
2. The competent service shall fix and divulge the calendar for the substitutions referred to in the preceding number, which must not exceed, in total, three years after the effective date of this diploma.
3. After the period fixed in the calendar referred to in the preceding number has elapsed without requests having been presented, the license authorizations shall be considered null. Unless within 4 months, counting from the expiration of those deadlines, duly justified reason for non-timely substitution is presented.
4. Once the substitution is effected, the respective certificates shall be remitted to the interested party or to the entrepreneurial association, in the cases where the substitution requests are presented to the latter.
5. For the substitution of the authorization or license emitted under the provisions of Decree-Law nº 135/85, of 6 December, no fees shall be due.

#### Article 96

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Annex referred to in article 16 of Decree-Law<sup>o</sup>...../2001, of.....

Table containing the section of products pertaining to CEDEAO nomenclature, based on the Harmonized System Designation and Codification of Merchandise

Section	Products
I	
II	
III	
IV	
V	
VI	
VII	
VIII	
IX	
X	
XI	
XII	
XIII	
XIV	
XV	
XVI	
XVII	
XVIII	
XIX	

