

**Revision Proposal of Decree-Law n° 5/99,
of 1 February 1999**

(The commerce juridical regime)

Praia, December 2002

Brief Explanatory Note

Decree-Law n° 5/99, of 1 February reframed the commerce sector's juridical regime established by Decree-Law n° 135/85, 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 regulamented, and as a result, in practice, some of its provisions were never adopted.

That legal text was published with many errors, some of which made difficult the application of some of its norms (i.e. n° 3 of article 12, n° 2 of article 17, the body of n° 2 of article 32, the body of n° 3 of article 35, n° 2 of article 43, n° 2 of article 49, n° 2 of article 56, article 87). Some of the errors were corrected in the 90 day legal deadline through rectifications inserted in Official Bulletins n° 10 and 18 of the year 1999. However, an error-free text is required, to introduce innovations in the delegation of powers to the entrepreneurial associations in the commerce sector or geographical area, in commercial authorizations validity period, in professional identification cards, in fees due for services provided and in required juridical-formal improvements.

This diploma shall be followed by the publication of the respective regulation, which shall be conditioned by its effective date.

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

Decree-Law n° 5/99, of 1 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 the State in commercial activities.

However, the referred diploma was never regulamented 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 subparagraph 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 or 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 or 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 or 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 transitory basis. It will do so, whenever ponderous reasons of public interest and fundamental to the national economy, specifically the guarantee of provisionment of essential goods or the public health, so demand, and the provisionment cannot be assured by any other means.**

Article 5 Free competition

1. The commercial activity shall be exercised on the basis of free and loyal competition in the market, under the terms of and within the limitations of the law of competition and prices.
2. **The definition of the anti-economic offenses and infractions shall be the object of a special law.**

Article 6 Coexistence

1. In the exercise of commercial activity, 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 or retailers and the agricultural and industrial cooperatives whose objectives include the acquisition or sale, gross or retail, 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 combat 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's 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 measure 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 strives 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 or 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 or his/her account and resells them directly to the final consumer.
3. The purchase and sale of goods by public entities, 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 for 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 national or 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 nº 1 is the agent that directly imports products, raw material and equipment, but 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 a 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 or in installations not fixed to the ground in a stable manner under covered 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 the entities that exercise any of the activities indicated in articles 12, 13 and 14 should be made in accordance with the CEDEAO Nomenclature. It should be based on the **Harmonized System of Designation and Codification of Merchandise**, contained in table I, attached to this diploma of which it is an integral part.

Article 16
External commerce operations

Special legislation shall regulate the juridical regime of the external commerce operation.

Section II
Accumulations and suppressions

Article 17
Accumulation of the types of activities and sections

1. Joint exercise is permitted of more than one of the commercial activities comprised in the legal types referred to in articles 12, 13 and 14, as long as they are not suppressed under the terms of the articles that follow:
2. The commercial activities comprised in the types defined in the articles 12, 13 and 14, may comprise one or more sections of products.

Article 18
Suppression and accumulation for the importer

1. The accumulation of importer's activities with those of a fair-merchant, ambulatory salesperson or dealer is suppressed.
2. The importer accumulates with his/her own activities, those of a wholesale dealer, inherently, without the need for specific authorization.
3. The accumulation of the activities of importer and retailer is permitted only if there is a clear separation of the two activities in the accounting and establishment aspects.

Article 19
Suppressions to the exporter

Accumulation of the exporter's own activity with those of a fair-merchant, ambulatory salesman or dealer, is suppressed.

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 own 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 n° 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 n° 2 of article 11, as long as the legal and regulamentary 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 regulamentary 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 traditionally 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 regulamentary 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 or 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 infrastructures for retail or wholesale commerce with a useful commercial surface no smaller than 1,500 m². 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 provisionment, 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) The Government and, in particular, the governmental department responsible for the commerce sector and the competent services dependent on them;
 - b) The local authorities;
 - c) Other public entities with direct or indirect responsibility in the sector, in accordance with the proper competence of each one, defined by the present diploma and its regulations, in their own laws or in the organic statutes.
2. The intervention of the entrepreneurial associations of the respective sector or geographical area in commercial activity shall be defined in a protocol homologated by the Government member responsible for the commerce sector.

Section II

Prior authorization of the commercial activity

Article 29 Prior authorization

1. The exercise of any of the activities indicted 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 or 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 suppressions 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 specify the sections pertaining to the products under consideration.
4. Beyond the limitations of the requests, the prior authorization is also limited by the regulatory provisions for public reserves and the rules pertaining to accumulations and suppressions foreseen in articles 17 and following.

Article 30 Delegation of competence

1. The highest official of the government department responsible for the commerce sector may delegate the competence foreseen in n° 1 of the preceding article to the person responsible for the regional delegation of the government department responsible for commerce.
2. The highest official of the government department responsible for the commerce sector may also delegate the competences foreseen in n° 1 of the preceding article to the entrepreneurial association of the respective geographical area. The competence is delegated through a protocol homologated by the member of the Government responsible for the commerce sector, published in the Official Bulletin.
3. In the hypothesis of the preceding number, the entrepreneurial association of the respective geographical area will be subject to the general orientation and oversight of that official, relatively to the manner in which it exercises the competences delegated.

4. In the exercise of the competences delegated under n° 2, the entrepreneurial association of the respective sector or geographical area is duty-bound to provide services to all commercial agents of 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 to the respective municipal services. Or, should there be delegation of competences under the terms of n° 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, under 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 4th grade;
 - g) In the event of collective person, its 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 dispensed with:
- a) When the prior authorization request has as object the exercise of **retail**, ambulatory or fair-merchant activities;
 - b) In the event of succession by death regarding the surviving spouse, when the prior authorization request has for object the activity or activities that the deceased validly exercised.
 - c) In the cases of transfer, cessation of usufruct or cessation of exploration of any other form of gratuitous or onerous transmission of the establishment or warehouse in favor of the workers. In such cases, the authorization request must have for object, the activity or activities, that the transmitter was authorized to exercise.

Article 34 Requisites pertaining to establishments

1. When the exercise of the activity presupposes the existence of an establishment/store, of a warehouse or office, the same should obey the commercial urbanism conditions in the respective urban planning approved for the location in which they are situated. They should simply obey the urban planning, in the absence of those conditions.
2. In the absence of urban planning, the municipalities and the entrepreneurial associations of the respective sector or geographical area shall pronounce themselves regarding the socio-economic interest of the unit to be implanted.
3. In the absence of regulations pertaining to the hygiene and salubrity conditions, the municipalities, in articulation with the sanitary authorities, shall determine those conditions, to guarantee the minimum conditions for the defense of public health.
4. In any of the situations foreseen in n° 2 and 3, the decision of the municipality is considered favorable if the municipality does not pronounce itself within 30 work days, counting from the day the respective request was presented.
5. The determination may be substituted in the cases of gratuitous or onerous transmission of the establishment/store or warehouse by reference to the prior authorization to the previous owner. The substitution is valid, as long as the same type of activity is continued in the place of business, without alteration or expansion.
6. The requisites that must be fulfilled by warehouses destined to store food products shall be defined by joint decree of the government members responsible for the commerce and health areas (DGCC/DGS)

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 competences under the terms of n° 2 of the preceding article, the entrepreneurial association of the respective sector or geographical area shall perform the inspection.
2. The inspection is carried out, under regulametary terms, in a maximum of 10 working days, counting from the date of delivery of the request referred to in article 31.
3. Whenever it is deemed convenient, the commission referred to in n° 1 may determine whether or not to subject the establishments mentioned in the preceding number to new inspections under regulametary terms.
4. Each of the members of the inspection commission shall receive a gratification for the inspection in an amount to be fixed by a decree of the members of the Government responsible for the areas of commerce and finances.
5. The expenses referred to in the preceding number, as well as those for the necessary transportation are of the responsibility of the requestor.
6. The member of the Government responsible for commerce shall regulament, by decree, the provisions of this article, having heard the Capeverdian National Municipal Associations.

Article 36
Merchants' files in individual names

1. The merchants' prior authorization request in individual name shall be addressed to the highest Responsible official of the Government department responsible for commerce sector, or to the President of the Municipality, depending on the cases. Or, in the case of a delegation with competences under the terms of n° 2 of article 30, to the responsible official of the entrepreneurial association of the respective sector or geographical area. The request shall contain the following elements:
 - a) Identification of the requestor by name, date of birth, residence and number, date and location where the identification document was issued;
 - b) Commercial activity or activities for which prior authorization is required;
 - c) Sections and products comprised in the prior authorization request;
 - d) Location where the activity is to be exercised;

- e) Location and characteristic of the establishments/stores, the warehouses or offices, in the cases in 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 in n° 2 must be presented, in addition to the common elements.

Article 37

Collective persons files

1. The prior request authorizations 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. Or, in the event of the delegation of competences under the terms of n° 2 of article 29, to the responsible official of the entrepreneurial association of the respective sector or geographical area, and shall contain the following elements:

- a) Identification of the requestor by the firm or particular denomination, main office and date of constitution;
- b) Commercial activity or activities for which the prior authorization is requested;
- c) Products or groups of products comprised by the prior authorization request;
- d) Location and characteristics of the establishments/stores, the warehouses or office, in the cases where the exercise of the activity presupposes their existence.

2. The requests from the commercial and public enterprises shall be accompanied by the following documents:

- 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 accompanied by the following documents:
- a) Identification by the name, state, profession, residence, number of the identification card;
 - b) Certificates of commercial registration or, should these be negative, a declaration from the requestor indicating they are capable under civil law and that they are not inhibited from exercising commerce;
 - c) Documented proof that they possess the minimum mandatory schooling;
 - d) Certificate of criminal registration;
 - e) *Documented proof of the respective quality*;
 - f) Two photographs of the type pass;
 - g) *Documented proof of residence in the country.*
4. The requests from complementary groupings of enterprises shall be accompanied by the following documents:
- a) Note of a certificate of commercial or cooperative definitive registration;
 - d) Decisions referred to in article 34 or proof that the conditions referred to in n° 4 and 5 of the same article are met.

Article 38 Supervening alterations

1. The request for expansion into other activities of a valid previous prior authorization only needs to be accompanied by a reference to the pre-existing prior authorization and by the documents deemed necessary as a function of the new request.
2. Request to annotate a prior authorization to commercialize new products, with or without alteration to those already authorized, should be accompanied by the number of the pre-existing prior authorization. It should also be accompanied by the documents deemed necessary as a function of the new request.

Article 39 Deadline for the decision

1. The government Entity responsible for the commerce sector, or the municipality, or, should there be delegation of competences under the terms of n° 2 of article 30, the entrepreneurial association of the respective sector or geographical area, shall emit a decision granting or denying the prior

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 in 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 three days after it is expedited.
4. The processes are considered null if the deficiencies referred to in the final part of n° 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 n° 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 n° 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 duplicate 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 deadlines referred to in article 45;
 - c) By the dissolution of the collective person;
 - d) To the entities referred to in n° 4 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 n° 1 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 apprehended, when one of the following situations occurs:
 - a) Condemnation on matters of security of 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 fundamented request of the interested party, addressed to the Government department responsible for the commerce sector, or to the municipality, as the case may be. If there is delegation of competences under the terms of n° 2 of 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 n° 2 of article 30, the

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

2. The Economic Activities General Inspection and the competent entities that may have organized prior authorization processes shall be informed of the decisions of the government Department responsible for the commerce sector, or the municipality, within ten days. The same applies to the entrepreneurial associations, in the cases where there is delegation of competences under the terms of n° 2 of article 30.
3. At the end of the suspension, the government Department responsible for the commerce sector, or the municipality, shall return the apprehended card to its owner. Or, should there be delegation of competence under the terms of n° 2 of article 30, the entrepreneurial association for the respective sector or geographical area, shall return the apprehended card to its owner. The Economic Activities General Inspection should be informed of the fact, within ten days.

Article 44 Apprehension of the cards

In the cases foreseen in articles 41 and 42, it behooves the Economic Activities General Inspection to solicit from the government Department responsible for the commerce sector, or the municipality, to apprehend the cards and remit them to that service. Or, should there be delegation of competences under the terms of n° 2 of article 30, the entrepreneurial association of the respective sector or geographical area, the entrepreneurial association shall apprehend the card and return it to the same service.

Article 45° Deadlines for the presentation of new requests

1. When facts inherent to the entities referred to in article 2 occur that imply any sub-situations in the prior authorizations in effect, the card owner is granted a period of ninety days to normalize the situation. The 90 days are counted from the date of the occurrence of the sub-situation.
2. In the event of death of the merchant in individual name, the prior authorization may subsist provisionally in the name of the same, for the following periods:
 - a) 180 days, counted from the date of death proven by the death certificate, when there is no judicial partition;
 - b) 60 days, counting from the homologation of the judicial partition decision with transit into sentence, in the remaining cases.
3. Upon termination of the situations foreseen in the preceding numbers, it behooves the substitutes to remit the title bearing card of the prior authorization, jointly with the new request, to the government department responsible for the commerce sector, or the municipality, as the case may be, or, should there be delegation of competence under the terms of n° 2 of article

- 30, the entrepreneurial association of the respective sector or geographical area;
4. The deadline referred to in n° 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 n° 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 entities 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 in 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 number constitute revenue for the State or the municipality. Should there be delegation of competences under the terms of n° 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 legal deadline shall be incremented with late fees that shall constitute revenues 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, to 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 activities, 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, to 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 in 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 confer upon the requestor 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) The accounting plan to be adopted by the interested party;
 - b) A term of responsibility for the referred accounting plan assumed by an accounts technician or a specialized enterprise that may become responsible for it.
 - c) A certificate of academic qualifications and the professional curriculum of the accounts technician, that demonstrate sufficient knowledge or experience to be in charge of the organization or good execution of the requestor's accounting.

Subsection II Exporter

Article 53 Indication and proof of the requisites

1. The export activity can be exercised only by the subjects that, aside from the general requisites referred to in article 33, fulfill the special requisites foreseen in the subparagraphs b) and c) of article 51.
2. With the necessary adaptations, the provisions of n° 1 to 3 of article 52 will apply to the proof of requisites established in the preceding numbers.

Subsection III Wholesaler or warehouser

Article 54 Indication and proof of the requisites

1. The wholesaler and warehouser activity can be exercised only by the subject that, aside from the general requisites referred to in article 33, fulfill the special requisites foreseen in the subparagraphs b) and c) of article 51.
2. With the necessary adaptations, the provisions of n° 1 to 3 of article 52 will apply to the proof of requisites established in the preceding numbers.

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 in article 33, fulfill the following special requisites:
 - a) Have a minimum capital allocated to the commercial activity whose amount shall be defined by decree from the member of the Government responsible for the area of commerce, having heard 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 provisions of n° 1 to 3 of article 52 will apply to the proof of requisites established in the preceding numbers.

Subsection V
Ambulatory sales

Article 56

Ambulatory salespersons

Evolving from the provisions of subparagraph b) 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 sell 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 forbidden 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 on products contained in a list to be approved by decree from the Government member responsible for the commerce sector.
2. The prohibition referred to in the preceding number does not apply to meet merchants that own fixed installations and are duly authorized to exercise this activity. The ambulatory sale must be done in a proper vehicle and sanitary conditions and it must be an extension of commerce already authorized.

Article 59

Interdiction to the ambulatory salespersons

1. The following interdictions apply to ambulatory sales:
 - a) Any form of impediment or obstruction of transit in the locations destined for the circulation of vehicles or pedestrians;
 - b) Impeding or making difficulty the access to the means of public transportation and the stop areas of the respective vehicles;
 - c) Impeding or making difficulty the access to monuments and public or private buildings, as well as access to expositions of the commercial establishments or stores that sell to the public;
 - d) Throw on the ground or on the sales locations, any deject, remains, garbage or any other material susceptible of nauseating or corrupting the public way;
 - e) Sell within 50 meters of the establishments that commercialize identical products.

Article 60

Sanitation bulletin

1. The participants in the conditioning, transportation and sales 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 or 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 61
Hygienic-sanitary measures

1. In the transportation, arrangement, exposition 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 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 62
Specific competences of the municipalities

It behooves the municipalities, to specifically:

- a) Restrict, condition or prohibit the sale of products, taking into account the hygienic-sanitary and aesthetic conditions and the public comfort;
- b) Interdict zones to the exercise of ambulatory commerce, attending to the need for security and pedestrian and vehicle transit, **having heard the competent authorities;**
- c) Establish fixed zones and locations for the exercise of the ambulatory sale activity, with self-owned resources or resources supplied by the municipality;
- d) Delimit locations or zones of access to vehicles and trailers utilized in ambulatory sales;
- e) Establish zones and locations especially destined for ambulatory commerce of certain specific categories;
- f) Emit and renew the authorization card for the exercise of ambulatory sales;
- g) Fix the cases of apprehension of contravention instruments, movable or immovable, which shall serve as bond for the infractor.

Article 63
Location of ambulatory salesperson activity

1. In locations that have markets with adequate facilities, ambulatory sales will be permitted only for products that are commonly sold in these markets and only when there are no vacant places for the fixed sales of the products.

2. If spaces are available in the markets 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 only 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. The Government member responsible for the commerce sector shall approve the model of the ambulatory salesperson card.

Article 65
Municipal registration

The municipalities must organize a registration of the ambulatory salespersons that are authorized to exercise their activities in the area of the respective municipality. A copy of the respective register, as well as its updates, shall be sent to the Economic Activities General Inspection and to the government Department responsible for the commerce sector.

Article 66
Self production

Ambulatory sale of artifacts, fruits, produce or any others self produced goods are subject to the provisions of this subsection.

Subsection VI
Fair-merchant

Article 67
Authorization

1. In the use of the respective attributions, it behooves the municipalities to authorize fairs and markets, when the interests of the populations so dictate. The municipalities must take into account the existing commercial equipment,

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) Emit or renew the card for the exercise of sales at the fair;
- b) Fix the periodicity and time-table for the fairs and markets, the respective place and realization;
- c) Fix the concession conditions and occupation of place of sales, the maximum number of the latter and the fees to be paid.

Article 70 Fair-merchant card

1. The fair-merchant must carry the respective up-to-date card, for immediate presentation to the competent oversight entities.
2. The fair-merchant card is valid only for the area of the respective municipality and for the period of a year, counting from the date of emission or renewal.
3. The fair-merchant card is personal and non-transmissible.
4. The Government responsible for the commerce sector shall approve the model of the fair-merchant card.

Article 71 Municipal registration

The municipalities must organize a registration of the fair-merchant that are authorized to exercise their activities in the area of the respective municipality. A copy of the respective register, as well as its updates, shall be sent to the Economic Activities General Inspection and to the government Department responsible for the commerce sector.

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 if 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 sales 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 or 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 artifacts, 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 Capeverdean 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, delegation 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 requestor 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 n° 2 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 and of the commercial

agent, or, should there be delegation of competences under the terms of n° 2 of article 30, by the entrepreneurial association of the respective sector or geographical area

Article 83 Identification Number

1. To organize the commercial establishment register, an identification number is attributed to each commercial establishment registered.
2. The identification number is sequential and shall be preceded by the code for the type of activity exercised followed by the code of municipality and location of the main office.

Article 84 Access to the information

1. The owners of the establishments are entitled to access to the information pertaining to them, contained in the commercial establishments register;
2. The owners of the establishments are entitled to demand correction or completion of the information contained in the prior authorization. In any such cases, the owners must demonstrate the reasons for rectification;
3. The public services have access to the individualized information available in the commercial establishments register;
4. The other entities may have access, under conditions to be agreed to, to the data in the commercial establishments register that do not involve personal data or others legally protected;
5. The entities that are furnished such information, under the terms of the preceding numbers, cannot furnish or divulge them to third parties, save with the express authorization of the service referred to in the preceding number.
6. The government Department responsible for the commerce sector should organize and publish the list of commercial enterprises, annually.

Article 85 Ambulatory salespersons and fair-merchants

1. The provisions of the preceding section do not apply do ambulatory sales persons or fair-merchants;
2. The government department responsible for the commerce sector may however, solicit the municipalities to remit the elements of information deemed convenient, pertaining to the activities of the ambulatory salespersons and the fair-merchants.

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 **12, 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 regulation and related legislation.

Article 88 Competence to apply fines

The following are competent to apply fines:

- a) In the wholesale and commercial agent commerce activities, the highest official of the government department responsible for the commerce sector;
- b) In the retail commercial activity, the President of the Municipality where the activity is exercised.

Article 89 Revenues

The revenues from the fines applied under the terms of this diploma are distributed as follows:

- a) 30% for the participant;
- b) 70% for the State's General Budget or the municipal budget, as the case may be.

Chapter VI **Diverse, final and transitory provisions**

Article 90

Professional identification card

1. Without prejudice to the possession of the 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 the 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 as the public way and the provisioning markets. (*Translator's note: this sentence is jumbled up and incomprehensible, in its Portuguese version. A clarification of the meaning of the text should be sought to confer with the translation for accuracy*)
3. The entrepreneur identification card proves that the same meets the general requisites for the concession of prior authorization foreseen in article 32. When dealing with collective persons, emission of the same card shall depend on fulfillment of the same requisites as the singular persons that may be obligated by it.
4. The member of the Government responsible for the commerce sector shall approve the model of the professional identification, by decree.

Article 91

Large commercial surfaces

The licensing procedure, installation and operation of the large commercial surfaces shall be the object of a special diploma.

Article 92

Forms

The forms necessary to execute the present diploma shall be approved by Decree from the member of the Government responsible for commerce. Computerized forms may substitute these forms (DGCC).

Article 93

Adaptation of the municipal postures

The municipalities shall make due providence toward adapting the municipal postures regarding the exercise of the commercial activities of ambulatory sale and fair-merchants to those extracted from the present diploma and its regulations.

Article 94

Authorizations emitted under the cover of prior legislation

The authorizations emitted under the cover of Decree-Law n° 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 n° 135/85, of 6 December, no fees shall be due.

Article 96

Pending processes

Authorization or license requested under Decree-Law n° 135/85, of 6 December, that are still pending because of incomplete documentation shall be considered null, unless such documents are presented within ninety days, after the effective date of this diploma.

Article 97

Regulamentatin

1. The Government member responsible for the commerce sector shall regulate this diploma, by decree, within 90 days, without prejudice to the provisions of the number that follows.
2. The regulation of this diploma relative to ambulatory sale or sale at fairs is the competence of the respective municipality.

Article 98
Revocation

Decree-Law 5/99 of 1 February is hereby, revoked.

Article 99
Effective date

This diploma goes into effect jointly with the regulation foreseen in article 97.

Annex referred to in article 15 of Decree-Law n°...../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	Live animals and animal products.
II	Vegetable products.
III	Vegetable or animal fats or oils; Products from dissociating them; elaborated and food fats; wax from vegetable or animal origin.
IV	Products from the food industries; drinks, alcoholic liquids and vinegars; tobaccos and their manufactured substitutes.
V	Mineral products.
VI	Products from the chemical industries and related industries.
VII	Plastics and their works; rubber and their works.
VIII	Skins, hides, furs and works from these materials; post office and coachery articles; travel articles; bags and similar artifacts; gut works.
IX	Wood, vegetable coal and wood works; cork and its works; weaving or basketry works.
X	Wood pastes or of other fibrous cellulose materials; papers or cardboard to be recycled (waste and scraps); papers and their works.
XI	Textiles and their works.
XII	Footwear, hats and artifacts of similar use, umbrellas, canes, whips and their parts; prepared feathers and their works; artificial flowers; hairworks.
XIII	Stonework, clay, cement, asbestos, mica or similar materials, ceramic products; glasses and their works.
XIV	Natural or cultivated pearls, precious stones, metals bathed or clad with precious metals and their works; jeweleries; coins.
XV	Base metals.
XVI	Machines and equipment, electrical material and their parts; sound recording or reproduction apparatus, apparatus for recording sound and images on television, their parts and accessories.
XVII	Transportation material. Optical, photography or cinematography, measurement, control or precision instruments and apparatus; medical-surgical instruments and apparatus; watch articles; musical instruments, their parts and accessories.
XVIII	Weapons and munitions their parts and accessories.
XIX	Merchandise and diverse products;
XX	Art objects, for collection or antiquities.

José Júlio Monteiro Sanches
DGCC