Unofficial Translation

Tobacco: dates of expiration and manufacture henceforth mandatory on packages

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For the purpose of cleaning up the tobacco industry in the Democratic Republic of Congo, the government is not lacking in initiatives to strengthen the regulations in force. A case in point is the new provision made public on May 16th by the Secretary General of the Ministry of Health.

This refers, in fact, to Circular N° 1251/SG/1181/2008, adopted in the execution of Administrative Order N°1250/CAB/MIN/SP/O10/AQ/2007 of July 19, 2007, bearing on measures applicable to the use and consumption of tobacco, tobacco products and derivatives; Administrative Order amended and supplemented by N°1250/CAB/MIN/SP/020/JT/2007 of December 28, 2007.
The 1st Administrative Order bears on the new presentation of cigarette packs in the RDC, a presentation that was supposed to enter into force as of January 20, 2008, and for which a moratorium of 6 months was agreed upon with the tobacco companies. Formalizing this moratorium, the 2nd Administrative Order made the following additions: the dates of manufacture and expiration of tobacco products and derivatives, inspection and tests for compliance, identification of tobacco company operators and the registration of brands with the National Tobacco Control Program and Toxic Materials (Pnlct – Programme national de lutte contre le tabagisme and les matières toxiques*), and the permit for placement on the market issued by the Ministry of Public Health.*

Below there follows the text of Circular N° 1251/SG/1181/2008 in its entirety.

CIRCULAR N° 1251/SG/1181/2008 of May 16, 2008, CONCERNING PROCEDURES FOR THE IMPLEMENTATION OF MINISTERIAL ADMINISTRATIVE ORDER N° 1250/CAB/MIN/SP/O10/AQ/2007 of JULY 19 2007, as amended AND SUPPLEMENTED BY ADMINISTRATIVE ORDER N°1250/CAB/MIN/SP/020/JT/2007 of DECEMBER 28, 2007, BEARING ON MEASURES APPLICABLE TO THE USE AND CONSUMPTION OF TOBACCO, TOBACCO PRODUCTS AND DERIVATIVES

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 1: This Circular aims to define the procedures for the implementation of the aforementioned Administrative Orders, particularly with regard to the dates of manufacture and expiration of tobacco products and derivatives, inspection and tests for compliance, identification of tobacco company operators and the registration of brands with the PNLCT, and the permit for placement on the market issued by the Ministry of Public Health.

ARTICLE 2: this Circular is of general application and is binding on all operators in this industry.

CHAPTER II: DATES OF MANUFACTURE AND EXPIRATION OF TOBACCO PRODUCTS AND DERIVATIVES.

ARTICLE 3: With regard to circumstantial technical constraints associated with the clear printing of the statement “date of manufacture and expiration” on all packs of tobacco products, manufacturers are authorized on a temporary basis to print a code on packs while awaiting the

implementation of a mechanism in accordance with Article 2 of Ministerial Administrative Order N° 1250/CAB/MIN/SP/020/JT/2007 of December 28, 2007.
Interpretation of this code by the PNLCT will be facilitated by operators who will make available to them the tools necessary for decrypting and understanding.

CHAPTER III: INSPECTION AND TEST FOR COMPLIANCE

ARTICLE 4: Pursuant to Article 12 of Ministerial Administrative Order N° 1250/CAB/MIN/SP/010/JT/2007 noted above, the PNLCT shall undertake an annual inspection visit to tobacco company operators and to test the compliance of their products.

The purpose of this visit is to ascertain the conditions for the growing, manufacture, conservation, stockage and storage of tobacco leaf, cigarettes and assorted other tobacco products of operators.

ARTICLE 5: In addition to the regular annual inspection, special oversight will be undertaken should it prove necessary.

ARTICLE 6: The compliance test seeks to ensure that the quality of the ingredients of tobacco products manufactured or imported into the market of the RDC is in compliance with recognized standards, especially with respect to tar and nicotine content.

This test also applies to other mandatory statements that must appear on packaging.

ARTICLE 7: The taking of samples of products will be carried out for analysis locally or outside the country in specialized laboratories of the WHO, the Ministry of Public Health or laboratories approved by the latter.

With the results of each exam, an attestation of compliance or non-compliance will be issued to the importer or manufacturer of the product subject to analysis, pursuant to the requirements of the previously cited Ministerial Administrative Orders.

In the event that results are challenged, the non-compliant product may, at the request of the interested party, be subject to a new conflicting analysis, or for cross-checking in the same laboratory or elsewhere. If the non-compliance is confirmed, the product will be destroyed.

ARTICLE 8: Any taking of products shall be subject to written notification duly signed by the inspector, and counter-signed by the principal or his representative.

Costs associated with this test are to be borne by the operator. The same applies to the costs of destruction in cases of non-compliant products.

CHAPTER IV: IDENTIFICATION OF OPERATORS AND REGISTRATION OF BRANDS

ARTICLE 9: All companies are required to identify themselves to the PNLCT using a form following the attached template.

They are also required to file a registration form with the PNLCT duly filled out for each product brand, accompanied by a complete file and proofs of payment of expenses.

ARTICLE 10: The components comprising the file are as follows:

- The identification form of the operator;
- The registration form for each brand of its products duly filled out (technical sheet);
- Copy of the permit to manufacture the products subject to excise taxes and consumption of the OFIDA (for manufacturers only);

Upon completion of this registration, the PNLCT shall issue to the operator a discharge confirming the deposit of the complete file.

CHAPTER V: AUTHORIZATION FOR PLACEMENT ON THE MARKET (AMM) OF TOBACCO PRODUCTS AND DERIVATIVES

ARTICLE 11: The application for a permit for placement on the market is addressed to the Minister of Public Health accompanied by the complete file. The file shall be forwarded for review to the secretariat of the technical commission for approval.

The elements comprising the file of the application for the AMM are as follows:

- Proof of Deposit of the complete file with the PNLCT; Copy of attestation of compliance by the PNLCT,
- Letter of application for permit for placement on the market addressed to the Minister of Public Health, and Proofs of payment of the taxes and fees appertaining thereto.

ARTICLE 12: The commission shall meet when convened by the Director of the PNLCT and under the presidency of the latter or his delegate. It shall take a position in favor of granting or refusing the permit applied for.

Any rejection of the permit must be supported by a written notification. The applicant may be invited to provide the means for a defense or supplementary information. Permits granted are to be signed by the Director of the PNLCT in accordance with the form appearing in Annex 3.

ARTICLE 13: Pursuant to Administrative Order n° 0l0/2007, as supplemented by Administrative Order n° 020/2007, any tobacco product placed in circulation without being covered by a permit for placement on the market as defined in this Circular is considered fraudulent.

CHAPTER VI: FINAL PROVISIONS

ARTICLE 14: Violations of the provisions of this Circular are to be punished by the penalties set forth in Article 20 of Administrative Order n°1250/CAB/MIN/SP/010/AQ/2007 of July 19, 2007, and the laws of the Democratic Republic of Congo. This Circular is supplemented by Annexes I (identification form of operator), II (brand registration from – technical sheet) and III (template-type

of presentation of packs).

ARTICLE 15: This Circular enters into force on the date of its signing.

Done in Kinshasa on May 16, 2008
Acting Secretary General
Dr Jean Honoré MIAKALA mia NDOLO

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http://tempetrop.onlinewebshop.net/index.php?view=article&catid=49%3Aarticles&id=296%3Atobacco-les-dates-de-peremption-et-de-fabrication-desormais-obligatoires-sur-les-emballages&tmpl=component&print=1&page=&option=com_content&Itemid=76 (accessed 07.05.2009)