

Overview of Legal News

Recently, two long-awaited laws have been published in the Official Gazette, namely the law on the post and electronic communications and the e-commerce law. A separate newsletter is dedicated to such laws.

This newsletter aims to give an overview of the other Algerian legal news over the past six months.

1. Regulation of imports and protection of the balance of payments

The Finance Law for 2018 (the “**2018 FL**”) allows the introduction of restrictions on the importation of goods until the balance of payments is restored.

In this context, various mechanisms for regulating and controlling imports have been established:

(i) Tariff-oriented measures

- *Increased customs duties on 129 products*

The 2018 FL increased custom duties up to 30% or even 60% on 129 products such as trailers or semi-trailers, cellular, mobile or satellite telephones and touch-screen electronic tablets.

- *Submission to the domestic consumption tax of 10 families of finished products*

The 2018 FL expands the list of goods subject to the domestic consumption tax at a rate of 30% for 10 families of finished products including modems, digital decoders and microcomputers.

- *Solidarity Contribution*

The 2018 FL establishes a solidarity contribution at a rate of 1% applicable to the import operations of goods released for consumption in Algeria.

(ii) Quantitative measures: Suspension on importation of 877 products

Executive Decree No. 18-02 of 7 January 2018, recently amended by Executive Decree No. 18-139 of 21 May 2018, defines a list of 877 products subject to temporary suspension on importation.

Among these products are mainly foodstuffs, but also construction materials (certain types of cement, granite, marble, ceramic tiles), household appliances, agricultural tractors, furniture, etc.

On 1 March 2018, the Trade Minister issued a press release specifying that these import suspensions are limited in time, and that they will be lifted according to the aggravation of taxes and other duties affecting the importation of such goods.

(iii) Regulatory measures

- *Limitation to 2 years of the period of validity of the importer's trade registry*

An order of the Trade Minister of 2 November 2017 limits the period of validity of the trade registry relating to the import activities of raw materials, products and goods intended for resale in the same conditions to 2 years (renewable).

Import operations carried out for its own account by any economic operator as part of its production or processing activities, within the limits of its own needs, are not subject to the above order.

Existing importers have until **13 June 2018** to comply with the provisions of the above order, subject to being removed from the trade register.

- *Certificate of Conformity issued by the Ministry of Trade*

Decree No. 18-51 of 30 January 2018 introduces the obligation for importers to obtain a certificate of the Ministry of Trade certifying the fulfilment of the conditions for the exercise of the import activity of raw materials, products and goods intended for resale in the same conditions, namely:

- be a commercial company under Algerian law subject to the supervision of an external auditor;
- have appropriate storage and distribution infrastructures that are to be used solely for transactions related to import activities of goods intended for resale in the same conditions;
- use means of transport suitable for the specifics of their activities;
- take the necessary measures to control the conformity of the imported products prior to their entry into the national territory.

This certificate issued by the Ministry of Trade prior to the exercise of the import activity shall be valid for 2 years (renewable).

The existing importers have until **1 August 2018** to comply with the provisions of Decree No. 18-51 referred to above. Otherwise, the importer's trade registry extract becomes ineffective.

(iv) Measures relating to the banking domiciliation of import operations

An instruction No. 05-2017 of 22 October 2017 issued by the Bank of Algeria provides that:

- The banking domiciliation of any importation of goods intended for resale in the same conditions shall be made 30 days before the shipment of such goods; and
- The importer must constitute a provision of at least 120% of the value of the import transaction.

A press release issued by the Minister of Trade on 1 March 2018 specifies that the file to be submitted to the local bank must contain a certificate of free marketing in the country of origin or provenance of the products exported to Algeria (except for certain products such as pharmaceutical products).

2. Introduction of the electronic trade register

Executive Decree No. 18-112 of 5 April 2018 sets out the template of the extract of the trade registry issued in the electronic format.

Thus, an electronic code called the Electronic Trade Register ("RCE") is inserted on the extracts from the trade registry of natural or legal entities carrying out commercial activities.

The RCE code is a graphical symbol with data and encrypted information pertaining to the relevant entity carrying out commercial activities.

Entities not holding the "RCE" code on their trade register extract must request the modification of their extracts, with the branch of the National Center of the Trade Register territorially competent in order to obtain the electronic code "RCE".

Excerpts from the trade registry not holding the RCE electronic code remain valid until **11 April 2019**.

3. Subcontracting in the mechanical, electronic and electrical industries

An interministerial order of 8 March 2018 lays down the conditions for the exemption of customs duties and value added tax for the components and raw materials imported or acquired locally by subcontractors in the mechanical, electronic and electrical industries.

(i) Exemption decision

The exemption decision is issued by the Minister of Industry upon submission of documents defined by the above order.

The exemption relates to customs duties and value added tax on components and raw materials imported or acquired locally, for a period of 5 years from the date of the exemption decision.

(ii) Eligibility to the benefit of exemptions

The benefit of the exemptions shall be subject to the following conditions:

- the subcontractor must be approved by a producer involved in the field of mechanical, electronic and electrical industries;
- the subcontractor must have facilities, equipment, tools, as well as human resources and skills necessary for the performance of subcontracting operations;
- the components and raw materials intended for the production of assemblies and sub-assemblies carried out by the subcontractor must undergo an industrial transformation;
- the products resulting from the production process using the components and raw materials subject to the exemption must be intended exclusively for the principal.

Note:

- approved subcontractors must keep an analytical accounting showing the level of industrial transformation for each phase of the production process;
- in the event of termination of the contract, the Minister of Industry must be informed within 8 days; it being specified that the breach of the contractual relationship leads to the cancellation of the exemption decision.

Upcoming reforms ...

Significant changes to the Algerian legal landscape are coming within the next months since **important bills** have recently been adopted by the Algerian Parliament, namely:

- adoption on 30 May 2018 of the health bill;
- adoption on 13 May 2018 of the bill on the conditions of commercial activities;
- adoption on 13 May 2018 of the bill on the protection of natural persons in the processing of personal data;
- adoption on 13 May 2018 of the bill on consumer protection and the removal of fraud.



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