



The Council of Ministers of Togo adopted two additional implementation decrees of the tobacco control law



On Wednesday, 12th September 2012, the Council of Ministers of Togo adopted two implementing decrees of the law n° 2010-017 of December 31, 2010 concerning the production, commercialization, and consumption of cigarettes and their derivative products. The two decrees are precisely (1) decree concerning the regulation of points of sale of tobacco and tobacco derivative products and (2) the decree concerning the prohibition of advertising, promotion and sponsorship of tobacco and its derivative products. Being among the best tobacco control legislations in WAEMU countries, Togo proves an outstanding leadership in the implementation of the FCTC in the region.

KEY NOTES OF THE DECREE CONCERNING THE REGULATION OF POINTS OF SALE OF TOBACCO AND TOBACCO DERIVATIVE PRODUCTS

Article 3: Sale of tobacco and its derivative products

For the implementation of this decree:

1. A point of sale of tobacco is a fixed location demarcated permanently by partitions or continuous walls extending from the floor to the ceiling, to which the clientele can only gain access through an opening equipped with a door, and in which the operator of this location offers tobacco, tobacco products, or derivative products for retail sale;

2. Any person, other than a tobacco grower or manufacturer or a distributor of tobacco products, that possesses or holds a quantity of tobacco, tobacco products, or derivative products in excess of its own needs for consumption is presumed, in the absence of any proof to the contrary, to be a retail seller of tobacco.

Article 4: Prohibition of the sale of tobacco to children

Article 4.1: It is forbidden to sell or to give away for free to any child tobacco and its derivative products.

Article 4.2: It is forbidden to any child to sell or distribute tobacco and its derivative products.

Article 4.3: Any person who wishes to purchase tobacco, tobacco products, or derivative products or is admitted to a cigar salon is obliged to prove that he or she is of age.

Article 4.4: Proof of age can be established by presentation of a national identity card, or voter registration card, or any other identity document.

Article 4.5: In a prosecution for infraction of the fourth sub-paragraph of this article, the defendant shall not be subject to any punishment if he or she proves that he or she acted with reasonable diligence to ascertain the age of the person and that he or she had reasonable grounds to believe that such person was of age.

Article 5: The retail sale of tobacco and its derivatives

Article 5.1: The retail sale of tobacco, tobacco products, or derivative products must take place at a point of sale of tobacco, in the physical presence of the operator of the point of sale of tobacco, or of his representative and the purchaser.

Article 5.2: The operator of a point of sale of tobacco may not sell tobacco, tobacco products, or derivative products to an adult if he knows that the latter is buying it for a minor.

Article 5.3: The operator of a point of sale of tobacco must store the tobacco, tobacco products and derivative products in such a way that the clientele cannot have access to it without the assistance of an employee intermediary.

Article 6: Sales of tobacco and its derivatives prohibited

Article 6.1: Duty free sales of tobacco and its derivatives are formally prohibited.

Article 6.2: The operator of a place or business may not have installed, maintained or kept on site a tobacco vending machine.

Article 6.3: It is forbidden to operate a point of sale of tobacco in the following places:

1. On the grounds or facilities of a health care or social service institution;
2. On the grounds and in the premises or buildings provided for a school, at a center for adult professional training, or an institution of private instruction or an institute or university;
3. On the grounds or facilities of a preschool or daycare facility;
4. On premises where sporting, entertainment, cultural or artistic activities are conducted;
5. In licensed establishments of restaurants, taverns or bars, unless it is a cigar salon or cigar salon that does not serve food or beverages or something similar;
6. In places where restaurant activities are conducted on the basis of a permit issued in application of paragraph n of the first sub-paragraph of Article 9 of the Law on food products.



Article 7: Display of tobacco and its derivatives products.

Article 7.1: The operator of a point of sale of tobacco may not display tobacco, tobacco products, or derivative products, or its packaging or images of its packaging to public view.

Article 7.2: Only one list of products in text format indicating prices is allowed. The text must be black [size and font] on a white background without any other markings except [if you want to require a health warning, you can describe its requirements here].

Article 8: Posting of notices

8.1 The operator of a point of sale of tobacco must post notice of the prohibition of selling tobacco to children, as well as the health warnings in force, pursuant to order of the Minister of Health.

8.2 These posters must be displayed for public view on or near each counter or cash register used when tobacco, tobacco products, or derivative products are sold.

8.3 It is forbidden to remove or alter these posters.

Article 9: Sign of panels indicating point of sales

Article 9.1: Shop owners are to indicate the presence of a shop by a sign or panel on the façade of its point of sale, with the statement "TOBACCO" in black on a white background, followed by the health warning, "Smoking causes a slow and painful death", of the same font and size as the word "TOBACCO", the whole positioned in the middle of the sign.

Article 9.2: Additional signs leading towards points of sale of tobacco are prohibited.

Article 10 establish a rigid system of monitoring and evaluation headed by the Ministry of Health

Very rigid sanctions (article 11)

KEY NOTES ON THE CONCERNING THE PROHIBITION OF ADVERTISING, PROMOTION AND SPONSORSHIP OF TOBACCO AND ITS DERIVATIVE PRODUCTS

Article 2: Scope of application

In the context of this decree, the prohibition of advertising for tobacco, as well as promotion and sponsorship, are understood to mean a comprehensive prohibition that extends to all domestic and cross-border forms of the following:

- of advertising and promotion of tobacco, as well as sponsorship, without exception, whether direct or indirect;
- of acts seeking to promote tobacco and its derivative products and acts that have, or are likely to have, a promotional effect;
- of promotion of tobacco products and the use of tobacco;
- of commercial communications as well as recommendations and commercial actions;
- of contributions of any kind for any event, activity or person;
- of advertising and promotion of brands of tobacco or any promotion of companies;
- of the extension and exchange of brands,
- of theatrical spectacles, games and
- of traditional media (print press, television and radio) or any other media, of films and other new technologies, including the Internet, cell phones, automatic distributors or any other form of advertising, promotion or sponsorship of tobacco



Article 3: Advertising and display of tobacco products and their derivatives at points of sale

It is prohibited to engage in advertising and promotion of tobacco products and its derivative products at points of sale.

This prohibition is total, and extends to any display or any visibility of tobacco products or image of tobacco products at points of sale, particularly fixed retail sale outlets and street vendors.

Operators of points of sale must refrain from exposing the public to tobacco products and their derivatives. Only a single product list in text format indicating price is permitted, without any promotional element.

This prohibition also applies on board ferries and airplanes, as well as in ports and airports, bus stations and train stations.

Article 4: Measures concerning the sale, advertising, promotion and sponsorship of tobacco products and its derivative over the Internet

The sale, offer of sale, supply or distribution of tobacco and its derivative products and the advertising, promotion and sponsorship of tobacco and its derivative products over the Internet or any other electronic media are prohibited.

This prohibition applies to establishments that sell tobacco and its derivative products, to credit card companies that facilitate payment, to internet service providers and courier or delivery services for these products.

Internet service providers, credit card providers, courier or delivery services for the products have an obligation to oversee the application of the provisions of this article, and particularly to take measures to prohibit or curb web sites for the sale of tobacco products and tobacco derivatives, prohibiting payment by credit card or any other appropriate measure.

Article 5: Measures concerning the extension and exchange of brands

Any form of advertising or disguised promotion of tobacco products and its derivatives through extension of brands or exchange of brands is prohibited.

Extension of brand is understood to refer to a brand of tobacco, an emblem, factory trademark, logo or commercial insignia or other distinctive characteristics, including associations with distinctive colors associated with a product or service not directly related to tobacco, in such a way as to produce a likely association between the tobacco product and the product or service not related to tobacco.

Exchange of brands is understood to refer to the use of a brand name, an emblem, factory trademark, logo or commercial insignia, or any other distinctive sign, including associations with distinctive colors, on a product or service not related to tobacco, that are associated with a tobacco product or a company in the tobacco industry, in such a way as to produce a likely association between the tobacco product or company and the product or service not related to tobacco.

Article 6: Measures concerning billboards, posters and other means of advertising

It is forbidden to engage in advertising of tobacco and its derivatives on any media.

Article 7: Measures concerning the prohibition of promotional acts

It is forbidden to engage in the promotion of tobacco and its derivatives on any media

Article 8: Measures concerning the prohibition of sponsorship

It is forbidden to engage in sponsorship of tobacco and its derivatives.

Article 9: Measures concerning cross-border advertising, promotion and sponsorship

Cross-border advertising, promotion and sponsorship of tobacco, tobacco products, and derivative products are prohibited.

Institutions or individuals that import information, media, or of any other kind have an obligation to ensure that they do not broadcast information at variance with the provisions of this article.

The competent offices of customs, communication and information, publishing and printing, telecommunications, and other structures involving cross-border advertising, promotion and sponsorship, have an obligation see to it that these provisions are enforced.

Article 10: set up a following and evaluation headed by the ministry of health. Very rigid penalties (article 11)



We recall that three (03) decrees have already been adopted by the Council of Ministers, bringing the total number of adopted decrees to 5. The aforementioned decrees were adopted thanks to technical and financial support of Campaign for Tobacco-Free Kids (CTFK). Since January 2012, ANCE received financial support which aimed at facilitating the establishment of a committee to draft decrees implementing the law, funding activities of this committee, funding the validation workshop and lobbying the governmental cycle.

We are very pleased for having worked with CTFK in this project and we thank His Excellency the Minister of Health of Togo, Prof. Charles Kondi Agba for his personal commitment throughout this process. We also thank the NCDs and FCTC focal points for their devotion and cooperation. Our thanks also go to the WHO representative in Togo, Dr Peter Mpele, and the focal point of FCTC at the WHO, Mr. Gerson Mawuvi Tamakloe.

Next Steps:

1. Strengthen the capacities of enforcement stakeholders on the law and its implementing decrees;
2. To integrate the used of social media to disclose the law and its decrees;
3. To monitor the tobacco industry and support the implementation of article 5.3 of the FCTC;
4. To promote a sustainable tobacco taxation policy and fight against the illicit trade of tobacco products;
5. To promote the advocacy research.

Important note:

The Togolese government should be used as entry point to promote tobacco control in WAEMU. The Togolese president is the Chair of WAEMU and the Inter-Parliamentarian Committee of WAEMU is Chaired by a Togolese who is Honorable Dama Dramani.

Visit the website of our partner at the following link: www.tobaccofreekids.org

ANCE is a network of 26 NGOs working in the field of sustainable development in Togo since 1999 and registered at the Ministry of Decentralization and Local Authorities in Togo.

ANCE is run by a Board of seven (07) members representing all social strata of the country with diversified expertise. The Executive Secretariat based in Lome is composed of twelve (12) permanent people and five (05) temporary people. Since early 2011, a regional office was created by ANCE in Kara (northern Togo).

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