



SEVENTY NINTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS
Abuja 13 -14 December 2017

**DIRECTIVE C/DIR.1/12/17 ON THE HARMONIZATION OF EXCISE DUTIES ON
TOBACCO PRODUCTS IN ECOWAS MEMBER STATES**

THE COUNCIL OF MINISTERS,

MINDFUL of articles 10, 11, and 12 of the Revised Treaty of ECOWAS, as amended, on the establishment of the Council of Ministers and defining its composition and functions;

MINDFUL of article 3 of the said Treaty setting forth the areas in which the Community should focus its activities in order to achieve its goals and objectives;

MINDFUL of articles 35, 37 and 40 of the Revised Treaty respectively on trade liberalization, the Common External Tariff as well as on fiscal charges and internal taxation;

MINDFUL of Article 9 of the Supplementary Act A/SA.1/12/16 of 17th December 2016 prescribing areas which require the approval of the Community Parliament in the adoption of Acts in the Community;

CONSCIOUS of the role of the Community and of each Member State to protect the populations against any smoking-related health risk;

NOTING the rapid expansion of smoking in Member States and its harmful effects on health and economic consequences;

RECOGNISING the ratification, by all Member States, of the World Health Organization (WHO) Framework Convention on Tobacco Control, and in particular its Article 6 relating to the taxation of tobacco products, which sets out obligations for Member States;

CONVINCED of the major role of taxation in reducing the consumption of tobacco and tobacco products through a significant increase in excise duties on these products;

CONSCIOUS that the harmonization of Member States' fiscal legislations is essential to the establishment of the common market;

RJA

DESIROUS to actively fight against smoking, achieve consistency in the internal tax systems applied to tobacco products and reconcile tobacco excise duty regimes in force in ECOWAS Member States;

ON THE RECOMMENDATION of the fifty-eighth (58th) meeting of the Technical Committee Trade, Customs and Free Movement of Persons held in Ouagadougou on the 7th of July, 2017.

UPON THE OPINION of the Parliament at its Second Ordinary Session held in Abuja from 22nd November to 9th December 2017.

PRESCRIBES

CHAPTER I: DEFINITIONS

Article 1:

For the purpose of this Directive, the following meanings shall apply to the terms and expressions:

“Cigarette” means a roll of cut tobacco for smoking, enclosed in cigarette paper. it also includes fine cut “roll your own” tobacco for the purposes of making a cigarette;

“Community” means the Economic Community of West African States referred to under Article 2 of the Revised Treaty;

“Excise duties” mean indirect taxes applied to tobacco products in pursuance of this directive;

“Member State or Member States” means the Member State or the Member States of the Economic Community of West African States;

“President of the Commission” means the President of the Commission of the Economic Community of West African States;

“Tax administration” means the structure, institution or the agency in each Member State, responsible for the administrative management of excise duties;

“The ex-factory selling price” means the sum of all the production or manufacturing costs of tobacco products as well as all the profits made or expected by the manufacturer on the said products when sold in comparable circumstances between unrelated parties on the same free market;

"Tobacco products" means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;

"Treaty" means the Revised Treaty of the Economic Community of West African States signed in Cotonou on 24 July 1993 and all subsequent amendments.

CHAPTER II: SUBJECT

Article 2:

This Directive is aimed at harmonizing Member States' legislations related to excise duties on tobacco products.

CHAPTER III: SCOPE

Article 3:

1. Excise Duties shall be levied on tobacco products produced in or imported into the ECOWAS region.

2. For the purpose of this Directive, the following product categories are subject to excise duties:

Tariff Statistic Nomenclature (SH 2017)	GROUP OF PRODUCTS
2402.10.00.00	Cigars and cigarillos, containing tobacco
2402.20.00.00	Cigarettes containing tobacco
2402.90.00.00	<i>Cigars, cigarillos and tobacco substitutes</i>
2403.11.00.00	Water pipe tobacco
2403.19.00.00	Other smoking tobacco, containing tobacco substitutes in any proportion
2403.91.00.00	"Homogenised" or "reconstituted" tobacco
2403.99.10.00	Expanded tobacco
2403.99.90.00	Chewing, snuffing tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.

R.A

Article 4:

Member States shall not make distinctions based on the quality, the package, the origin of the products or the materials used and the characteristics of companies or any other criterion for the taxation of tobacco products referred to in this Directive.

Article 5:

Member States shall not grant any exemption as regards tobacco products referred to in this Directive subject to the franchises established in conformity with international conventions.

CHAPTER IV: STRUCTURE OF EXCISE DUTIES AND RATES APPLICABLE

Article 6:

Member States shall make tobacco products subject to an excise duty, which must include an ad valorem duty and a specific duty.

Article 7:

The taxable amount for the ad valorem duty on the value is constituted:

- a) For import products, by the customs value plus duties and taxes levied on entry, except for VAT and excise duty;
- b) For locally-manufactured products, by the ex-factory selling price or output price, excluding VAT and excise duty.

Article 8:

The applicable rate for the ad valorem duty shall be 50% or more.

Article 9:

The taxable amount of the specific duty shall be constituted:

- a) For cigarettes, cigars and cigarillos, by stick of product;
- b) For all other tobacco products, by the weight expressed in kilogramme (Kg).

Article 10:

Member states apply a specific tax at least equal to:

- a) 0.02 US dollar per stick of cigarette, cigar and cigarillos;
- b) 20 US dollars per net kilogramme for all other tobacco products.

CHAPTER V: TAXABLE EVENT

Article 11:

The taxable event on excise duties is composed of:

- a) The introduction of goods into a customs territory for consumption in compliance with customs definition for imports;
- b) The first point of sale for a valuable or free consideration or the deduction for locally- produced goods.

CHAPTER VI: TAX LIABILITY

Article 12:

The excise duties are liable in the conditions set up by each Member state.

RD

CHAPTER VII: ESTABLISHMENT OF A MONITORING COMMITTEE

Article 13:

To implement the provisions of this Directive, the Commission shall put in place a Monitoring Committee which shall draft an evaluation report every two (2) years and propose the necessary adjustments.

Article 14:

The Monitoring Committee shall be made up of representatives of Member States, designated from customs and tax administrations, the health sector, and representatives of the Commission. The Commission may require any expertise necessary for achieving the Committee's missions. The Commission shall propose the procedures for designating members as well as for the functioning of the Monitoring Committee.

CHAPTER VIII: FINAL PROVISIONS

Article 15:

This Directive shall repeal provisions relating to the taxation of tobacco products in the Directive N°C/DIR.2/05/09 on the harmonization of excise duties among ECOWAS Member States.

Article 16:

This Directive C/DIR. 1/12/17 shall enter into force upon signature. It shall be published in the Official Journal of the Community by the Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same time frame in the Official Gazette of each Member State after notification by the Commission.


Article 17

1. Member States shall adopt laws, regulations and administrative provisions to ensure that they comply with the provisions of this Directive no later than three (3) years commencing from 1st January 2018
2. The provisions referred to in paragraph 1 of this Article, as adopted by Member States, shall contain a reference to this Directive or shall be accompanied by such reference upon official publication.
3. Member States shall communicate to the ECOWAS Commission measures or provisions adopted to ensure that they conform to this Directive.
4. Member States shall notify difficulties encountered in the implementation of this Directive to the President of the Commission, who shall submit a report thereon to the next session of the Council of Ministers, which in turn, shall take appropriate measures to ensure the implementation of this Directive.

Article 18:

Member States shall communicate to the ECOWAS Commission, measures or provisions that they adopt to comply with this Directive.

DONE THIS 14th DAY OF DECEMBER 2017



PROF. ROBERT DUSSEY

THE CHAIRMAN OF COUNCIL

SIGNED THIS ^{16th}----- DAY OF DECEMBER 2017