

PRESIDENCY OF THE COUNCIL OF MINISTERS

Legislative Decree n. ° 5/95

Of 27 June

A global reform of the “customs legislation” is urgently needed.

First, because of the approval and implementation of a new Constitution, bound by and crisscrossed with new principles and values that go hand-in-hand with the instituted democratic State ruled by law. The new Constitution demands respect for the norms and principles of the Fundamental Law, which is seen and accepted as both the basis and the delimiter of the State Powers.

Secondly, it is fundamental to update and modernize the essential aspects of the prevailing juridical regime in the old diploma from 1944, synchronizing it with the principles, the values and notions of today's penal and procedural legislation leading to the rethinking and redefinition of the illegal types; to a redefinition of the forms of reappearing of customs fiscal and co-participation infractions; to a re-evaluation of the dispositions relative to presumptions confronting with the constitutional principles of presumption of innocence of the guilt of the accused; to the updating of the actual sanctioning system; to the “decriminalization” of some infractions, transforming them into “contra-ordinations” in the cases in which there are no juridical goods considered as socially relevant interests and whose defense is an indispensable condition to the free development of man's personality.

Finally, a global reform of the “customs legislation” is a must to give unity to its juridical discipline, which is like a true “patch quilt”, today, with the superposition of partial alterations that complicate life to the interpreters and applicants of the law, without forgetting the need to harmonize its regime with the solutions emptied in the legislative decree n. ° 69/93, of 13 December and to proceed with the reform started with the contra-ordinations base law.

Thus, under the cover of the legislative authority granted by Law n. ° 110/IV/94, of 27 December;

Using the faculty conferred by sub paragraph b) of n. ° 2 article 216 of the Constitution, the Government decrees the following:

Article 1

The Law of Customs Fiscal Infractions is hereby approved, annexed to the present diploma of which it is an integral part and is signed below by the Minister of Economic Coordination.

Article 2

1. The processes pending on the effective date of this diploma, pending processes pertaining to customs criminal fiscal infractions shall be remitted to the judicial courts. The Public Ministry shall be competent to direct any investigations, under the terms of the applicable general law.
2. Pending non-criminal fiscal infraction cases shall obey the customs fiscal legislation in effect, observing the provisions of articles 24 and 26 of Legislative Decree n. ° 69/93 of 13 December.

Article 3

Part I of the Customs Legislation approved by Decree-Law n. ° 33531, of 21 February 1944, with the alterations that were introduced and all the legislation contrary to the present diploma is hereby revoked.

Article 4

The present diploma becomes effective 30 days after the date of its publication.

Viewed and approved in he Council of Ministers.

Carlos Veiga – António Gualberto do Rosário – Pedro Freire Andrade.

Promulgated on 26 June 1995.

Let it be published.

The President of the Republic, in exercise, AMILCAR FERNANDES SPENCER LOPES.

Referended on 26 June 1995.

The Prime Minister

Carlos Veiga

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CUSTOMS FISCAL INFRACTIONS LAW

PART I

General Principles and Dispositions

CHAPTER I

General Principles

Article 1

(Customs fiscal infractions)

Customs fiscal infraction is the typical illicit, culpable act declared punishable by the customs fiscal law.

Article 2

(Legality Principle)

Only an act described and declared punishable by a prior law, at the moment the act is committed, shall be punished as a customs fiscal infraction.

Article 3

(Classification)

The customs fiscal infractions are classified as crimes or as contra-ordinations

Article 4

(Application in Space)

Except in the case of convention to the contrary, the present diploma applies to acts committed in the capeverdian customs territory and to the acts committed outside of it, as long as the typical result is produced in Cape Verde.

Article 5

(Place Where the Act is Committed)

The act is considered committed at the place where, totally or partially, and under any form of co-participation, the perpetrator acted or, in the case of omission, should have acted, independently of the place in which the typical result was observed.

Article 6

(Moment When the Act is Committed)

The act is considered committed at the moment when its perpetrator acted, or, in the case of omission, should have acted independently of the place where the typical result was verified.

Article 7

(Condemnation and Responsibility by Rights)

1. Condemnation and the observance of the sanctions for customs fiscal law infraction do not exempt the perpetrator from the payment of duties and other impositions legally due for the merchandise, object of the infraction, except if the merchandise belongs to and is abandoned by the perpetrator or was declared lost to the National Estate.
2. With the necessary adaptations, the same regimen foreseen in the previous number shall be applied in the event of absolution or retirement of the records.
3. The merchandise apprehended or placed at the disposition of the Customs are considered abandoned to the National Estate if they are not processed and released within fifteen days after the date of the respective notification.

Article 8

(Amount of Duties and Other Impositions)

The violator is bound to pay the same duties and other impositions as those that correspond to the merchandises, object of the infraction, if the merchandise were normally dispatched at the moment the infraction is committed.

Article 9

(Concept of Customs)

For the purpose of the present diploma customs and custom-houses are taken to mean the installations or official fiscal posts, the roads that lead directly to them, the repositories under customs regime and, in general, the locations subject to fiscalization where embarkation and debarkation of passengers, loading and unloading of merchandize captive to the duties or other taxes to be collected by the customs are performed.

Article 10

(Subsidiary Duties)

In everything that is not especially regulated by the present diploma the dispositions of the common penal law are applied, if they constitute crime. The contra-ordination base law applies, in the cases of contra-ordination infractions, and the civil law, in the case of customs fiscal responsibility of a civil nature.

CHAPTER II

Presumptions of Punishment and Forms of Infractions)

Article 11

(Action and Omission)

1. When a type of legal custom fiscal infraction includes a certain result, the act encompasses not only the adequate action to produce but also the omission of the adequate action to prevent it, except when the intention of the law is another.
2. Committing an act by omission is punishable only when the author has a juridical duty that obligates him personally to prevent the typical result.

Article 12

(Responsibilities of Collective and Matched Persons)

1. Without prejudice of the individual responsibility, the collective persons or matched entities are responsible for the customs fiscal infractions committed by their organs or representatives, in their name or in the interest of the collectivity, except if the agent has acted against the orders or instructions of the represented.
2. If the entity does not have juridical personality, the common patrimony shall answer for the fulfillment of the pecuniary sanction, and, on its absence or insufficiency, the patrimony of each of the associates.

Article 13

(Joint Responsibility)

1. If several persons, singular or collective commit the infraction, they are all jointly responsible for the payment of the duties and other due impositions.
2. Joint responsibility shall also apply in cases of subordinated work relations, whether the perpetrator was a subordinate of a single person or by a collective person or matched entity and the infraction is committed by the representative of a collective person or matched entity acting in the exercise of that representation.
3. If the collective person or matched entity no longer existed juridically at the moment the respective process is instituted the individuals that participated in shall answer jointly.

Article 14

(Civil Responsibility)

1. Single, collective or matched persons to whom are subordinated those that, in the performance of their trusted duties, commit an at punishable in accordance with the dispositions of the present diploma, as well as he parents and legal representatives of minors and handicapped regarding the infraction committed by he latter, are subsidiarily responsible for the payment of the amount corresponding to the pecuniary sanction attributed to the commission of the infraction.

2. Should the collective person or matched entity not have juridical personality at the moment the process is instituted, the members thereof at the time the infraction was committed shall be jointly responsible for the payment of the pecuniary sanction.
3. The provisions of the preceding numbers shall not apply if it is proven that the accused took all the precautions necessary to observe the legal and regulatory requisites.

Article 15

(Acting in Someone Else's Behalf)

Whosoever acts in representation of someone else while title holder of an organ of a collective person or association, and even while disagreeing with the person goes along with him/her, with the conditions, the qualities or the relationships required by the type, so as to affirm the authorship of the infraction, is punishable.

Article 16

(Subjective Imputation)

Only the acts committed by fraud, or, in the cases expressly foreseen by law, by negligence, are punishable.

Article 17

(Error Regarding the Circumstance of Fact)

Fraud is excluded from the error over descriptive or normative elements of the type, or the *de facto* presumption of a case of justification of fact.

Article 18

(Error Over Illicitness)

1. Whosoever acts without conscious knowledge of the illicitness of the act, acts without fault, if the error is not attributable to him/her.
2. If the error is attributable to him/her, the sanction can be freely attenuated.

Article 19

(Preparatory Acts)

Preparatory acts are not punishable, unless the law states the contrary.

Article 20

(Attempt)

1. There is an attempt when the perpetrator fraudulently acts to commit an infraction, without consummating the same.

2. The following constitute acts of execution:

- a) Those that correspond, in one or in several elements, to the description of the type of crime or contra-ordination;
- b) Those that are not idoneous to the production of a typical result;
- c) Those that, according to common experience and save for unpredictable circumstances are of such a nature that they would lead to expect that acts of the kinds indicated in the preceding subparagraphs would follow.

Article 21

(Punishability of the Attempt)

1. The attempt is punishable only when the law specifically so specifies;
2. If the attempt is punishable, the sanction shall be freely attenuated. However, the sanction cannot be less than the minimum limit legally prescribed, except if the law determines the contrary.

Article 22

(Non Idoneity of the Means and Lack of Object)

The attempt is not punishable when the idoneity of the means employed by the perpetrator is obvious or the object essential to its consummation does not exist.

Article 23

(Desistence and Active Sorrow)

1. The violator who voluntarily desists from proceeding with the execution of an infraction or impedes its consummation, or yet, when, in spite of consummation, impedes the attainment of the result whose verification the law wants to prevent, may be exempted from penalty
2. The same regimen of the preceding number shall be applied when the consummation or the verification of the result are impeded by circumstances, independently of the conduct of the perpetrator, if the same seriously strives to prevent one or the other.

Article 24

(Illicitness in Co-participation)

1. If the illicitness or degree of illicitness of the infraction depends on the perpetrator's qualities or special relations, the respective penalty applies to all co-participants if qualities or special relations are verified in any of them, unless the intention of the law is otherwise.
2. Whenever the application of the preceding number results in attributing the heaviest sanction to one of the co-participants, the sanction can be freely attenuated or substituted by a sanction that would have been applied if the rule established by the preceding number were not applied.

3. Number 1 shall not apply if the law determines that an act, qualified in principle as contra-ordination, must be considered as crime by virtue of certain of the perpetrator's qualities or special relations.

Article 25

(Fault in Co-participation)

Each co-participant is punished according to his/her guilt, independently of the punishment or the degree of guilt of the other co-participants.

Article 26

(Conflict of Norms)

If the same act constitutes simultaneously crime and contra-ordination, its perpetrator shall be punished for a crime, without prejudice of the accessory sanctions foreseen for contra-ordination.

Article 27

(Conflict of Infractions)

1. When the same infraction constitutes, simultaneously, a customs fiscal infraction and an infraction of another nature, the sanctions foreseen for each of the types is applied cumulatively if said infraction violates distinct juridical principles.
2. The act that qualifies as a customs fiscal infraction, in whole or in part, according to more than one legal disposition, shall be punished by the disposition that establishes the heaviest sanction.

CHAPTER III

Of the Extinction of the Responsibility

Article 28

(Prescription of the Proceedings)

1. The proceedings for customs fiscal infractions prescribes as soon as the following times elapse over the date of the infraction:
 - a) five years, if dealing with crimes punished with a maximum prison term of one year or more;
 - b) two years in the remaining cases.
2. To determine the maximum legal sanction referred to in the preceding number, the aggravating circumstances and the attenuators that modify the limits, within the same legal type, do not count.
3. For the purpose of this article, when the law establishes an alternative prison term or a fine for any customs crime, only the former is taken into account.

Article 29

(Interruption of the Prescription)

1. The prescription of the proceedings is interrupted and a new deadline for prescription is started in the event of a customs fiscal crime, with:
 - a) the first notification for the first depositions, appearance or interrogation of the perpetrator as the accused, in the preparatory instruction;
 - b) the notification of the pronouncement dispatch or equivalent;
 - c) the setting up of the trial date in absentee processes.
2. Safeguarding the suspension time, criminal proceedings shall prescribe, in accordance with the general penal law, when the normal period plus half has elapsed from its beginning.
3. The prescription of proceedings for contra-ordination is interrupted with:
 - a) the communication to the accused of the dispatch, decisions or measures taken against him or with any other notification;
 - b) carrying out of any diligence of proof, specifically exams and searches, or with the request for help to the police or administrative witnesses;
 - c) with any declarations proffered by the accused in the exercise of his right to be heard.
4. In case of conflicting infractions, the interruption of the criminal proceeding prescription determines the interruption of prescription of the contra-ordination proceedings.

Article 30

(Prescription of Sanctions)

1. The sanctions for customs fiscal infraction prescribes in the following deadlines, counted from the date the respective decision or sentence transits to judgement::
 - a) ten years for customs fiscal crimes punishable with maximum prison terms of two years or more;
 - b) five years for customs fiscal crimes punishable with maximum prison terms equal to or greater than one year but less than two years;
 - c) four years for crimes that are not contemplated in the two previous subparagraphs and for contra-ordinations punishable with fines greater than ecv 100.000\$00.
 - d) Three years in the remaining cases.
2. The prescription of the sanctions is interrupted with the respective execution.

3. The prescription of the principal sanction includes prescription of non-executed corresponding accessory sanctions.

Article 31

(Prescription of Duties and Remaining Impositions)

The obligation to pay the duties and remaining impositions prescribes after twenty years, counted from the date the condemning decision transit to judgement.

PART II

Of the Customs Fiscal Infractions

CHAPTER I

Customs Fiscal Crimes

SECTION I

Types of Customs Fiscal Crimes

Article 32

(Contraband)

Whosoever, by any means, causes any merchandise to enter or to exit the country without going through the customs, shall be punished with imprisonment of from three (3) months to two years or a fine of ecv 50.000\$00 to 10.000.000\$00.

Article 33

(Circulation and Concealed Contraband)

1. The following shall be punished under the terms of the preceding article:
 - a) Whosoever, by any means, places or retains non freed merchandise in circulation without processing the competent certificates or other required documents, or without the application of fiscal stamps, markings or other signs legally prescribed;
 - b) Whosoever, in any means of transportation, hides undeclared merchandise or merchandise transported without manifest, that constitutes the whole cargo, or the part of the cargo with the highest value, or yet, non-constituted with a value greater than ecv 1.500.000\$00;
2. In the cases foreseen in subparagraph a) the punishment will be removed under the terms of the present article, if it is proven, in accordance with the applicable legal or conventional dispositions, that the merchandise is not foreign, without prejudice to the application of sanctions of another nature in compliance with another disposition of the present diploma.

3. For the purpose of subparagraph a) the merchandise are considered in circulation from the time they enter the country or exit from their point of production, until they pass to the hands of the consumer.

Article 34

(Qualified Contraband)

The crimes foreseen under articles 32 and 33 shall be punished with imprisonment of six (6) months to three (3) years or with fines of ecv. 60.000\$00 to 12.000.000\$00, whenever they were committed:

- a) at night or in an isolated place or with the use of fire arms and with violence, or yet, by two or more persons;
- b) by corruption on the part of any employee or agent of the State;
- c) with alteration or falsification of dispatch documentation or any other customs documentation or documents presented to the customs;
- d) by a customs or fiscal agent or an employee of any institution with competence in the matter of customs fiscal policing, or official dispatcher or any person duly qualified to perform customs dispatch;
- e) having as objective prohibited or conditioned import or export merchandise with a value greater than ecv 1.000.000\$00;
- f) having as objective, in whole or in part, the acquisition of merchandise consisting of objects of high historical, cultural or artistic value.

Article 35

(Privileged Contraband)

If the object of the crimes foreseen in the preceding articles is merchandise worth less than ecv. 40.000\$00, the fine to the perpetrator shall be half if the minimum limit is applied and one fifth if the maximum limit.

Article 36

(Special Dispositions in Contraband Crimes)

Depending on the circumstances, contraband crime expressly qualified as such under special dispositions are punished with the penalties foreseen in the preceding articles, unless a heavier penalty is applicable under the special dispositions.

Article 37

(Material Help)

Upon consummation of the crime, whosoever materially helps others take advantage of the economic benefit proportioned by the contraband merchandise shall be punished with one third of the penalties foreseen for the crime.

Article 38

(Fraud in the Transportation of Suspensive Duties Merchandise)

In the process of transporting merchandise shipped under the regimen of suspensive duties, whosoever subtracts or substitutes said merchandise or, for the same purposes alters, renders inefficacious, or destroys the seals, means of security control or customs identification, or, yet, does not observe the established itineraries, for the purpose of evading fiscalization, shall be punished with imprisonment of three to eighteen months or a fine of ecv. 30.000\$00 to 4.000.000\$00.

Article 39

(Fraud to the Customs Fiscal Guaranties)

The following shall be punished with imprisonment of three to sixteen months or a fine of ecv. 20.000\$00 to 2.500.000\$00: whosoever

- a) being the owner, depository or driver of a vehicle containing merchandise apprehended under the terms of the present diploma, damages, destroys or renders such unusable during or subsequent to the act of apprehension;
- b) After a criminal or contra-ordination process, foreseen in the present diploma, has been instituted against the perpetrator or a co-participant, the same destroys, damages, alienates or onerates the merchandises considered arrested as assurance of payment of the pecuniary sanction or tax payment, even if the merchandise is owed by another co-participant or responsible person

Article 40

(Credit Frustrations)

The following shall be punished with imprisonment of one month to one year or with fines of ecv 15.000\$00 to 2.000.000\$00: whosoever

- a) Acts with intent to frustrate, in whole or in part, the coercive collection of any amounts due the State for an infraction that alters or onerates patrimony, after a criminal or contra-ordination process has been instituted against the infractor;
 - b) Participates in acts or contracts that transfer or onerates patrimony, with foreknowledge of the existence of a criminal or contra-ordination process foreseen in this diploma, and with the intent mentioned in the preceding number;
3. However, depending on the case, if the amounts due are totally paid by the responsible person, either no criminal proceedings shall be instituted or the perpetrator shall be exempted from penalty.

Article 41

(Refusal to Present Merchandise)

Whosoever, having been appointed depository of merchandise apprehended under the terms of the present diploma, does not present them by the pre-established deadline, shall be punished with imprisonment of one to six months or a fine from ecv 15.000\$00 to 1.500.000\$00.

Article 42

(Violating Markings and Seals)

Whosoever opens, tears or destroys totally or partially, marks, seals or other signals legally prescribed, affixed by competent officials, to identify, secure or maintain inviolable merchandise subject to fiscalization, or to certify that the same is the object of arrest, apprehension or other cautionary measures, shall be punished with imprisonment of two to fifteen months or a fine of ecv 25.000\$00 to 3.500.000\$00.

Article 43

(Receiving Stolen Goods)

1. Whosoever dissimulates, receives as a pledge, acquires under any title, detains, conserves, transmits or contributes to transmit, or in any form secures for self or for a third party, the possession of merchandise object of customs fiscal infraction with the intention of securing, some patrimonial advantage, shall be punished with imprisonment of from two to three years or a fine from ecv 25.000\$00 to 3.000.000\$00.
2. If the perpetrator makes receiving stolen goods a way of life, or practices it habitually, the penalty shall be three months to six year imprisonment or a fine of ecv 30.000\$00 to 4.000.000\$00.
3. If before trial, the perpetrator surrenders the merchandise object of the infraction to the competent authorities and points out, with truth, the person from whom the merchandise was received, he/she may be exempt from the penalty or the penalty may be freely attenuated, providing none of the circumstances referred to in n. ° 2 is proven or that he/she has already been condemned for the crime of receiving stolen goods foreseen in the present diploma.

Article 44

(Privileged Receiving of Stolen Goods)

If the received merchandise qualified as stolen goods is worth less than ecv 30.000\$00, the receiving agent shall be punished with a fine from ecv 15.000\$00 to 150.000\$00.

Article 45

(Criminal Association)

1. Whosoever promotes, founds, leads, or integrates groups, organizations or associations whose principal or accessory activity is the practice of customs fiscal infractions foreseen in the present diploma, or supports such practices by supplying weapons, munitions, crime instruments, guards or meeting places, or provides any support that leads to recruiting new elements, shall be punished with imprisonment from eight to twelve years.
2. Whosoever promotes, participates in such groups, organizations or associations and supports them, furnishing weapons, munitions instructions, crime instruments, guards or meeting places, or any support that leads to recruitment of new elements.
3. The perpetrator may be exempted from penalty or the penalty can be freely attenuated if he/she voluntarily impedes or seriously strives to impede the continuation of the groups, organizations or associations or communicates their existence to the authorities in time to allow the latter to prevent the practice of the customs fiscal infractions.

SECTION II

Dispositions Applicable to Customs Fiscal Crimes

Article 46

(Attempt Punishability)

The attempt is punishable in the cases stated in articles 32, 33 and 34, and in the case stated in article 36 whenever the maximum penalty is equal to or greater than the penalty foreseen in those three articles.

Article 47

(Amount of the Penalty or Fine)

1. The amount of the penalty or fine to be applied for the practice of a customs fiscal crime shall never be less than double the value of the affected merchandise in the internal market, at the moment the infraction is committed, without prejudice to the disposition of article 21 and the results from the application of the free or extraordinary attenuation applicable to the concrete case in question.
2. The value of the merchandise is considered to be the price of its sale to the public on the date of the infraction.

Article 48

(Equivalence of Penalties)

1. For any juridical effect, or by virtue of the application of the norms contained in the penal legislation in effect, whenever it becomes necessary to establish an equivalence between the duration of the penalties foreseen in the present diploma and those of other legislation in effect, the following shall be taken into account:
 - a) Prison penalties with a maximum limit greater than three years correspond to the prison penalties greater than two to eight years;
 - b) Prison penalties whose maximum limit is greater than two years correspond to correctional prison penalties.

Article 49

(Alternative Imprisonment)

1. Whenever the agent is condemned to a fine penalty the respective sentence shall condemn to an alternative prison penalty, to be carried out in the event of non-payment, voluntary or coercive, of the pecuniary sanction.
2. For the purpose of the preceding number, the equivalence is fixed on the basis of ecv 150\$00 per day. The duration of the imprisonment established as an alternative to the fine cannot exceed three hundred days.

Article 50

(Interdiction From Exercise of Profession or Activity)

1. Without prejudice to what is legally established in the matter of rehabilitation, whosoever is condemned for the practice of contraband can be interdicted from the practice of the profession or activity whose exercise depends on a public title or on an authorization or homologation by a public authority.
2. The disposition of the preceding number shall apply, namely:
 - a) to the official dispatchers, their adjutants and practitioners and to all those who are duly qualified to effect customs dispatch;
 - b) to aircraft commanders and crew members, captains, other officers, masters, skippers, owners or crew members of any vessels, and to the agents or representatives of maritime agencies;
 - c) to the baggage handlers that render services in the maritime warehouse areas, to the employees and salaried personnel that provides services in the ports and airports and to the so-called "on-board businessmen".

CHAPTER II

Of the Customs Fiscal Contra-ordination

SECTION I

Counter-ordination Types

Article 51

(Straying)

1. A fine of ecv 35.000\$00 to 3.500.000\$00 shall be applied to every infraction that has as purpose to evade the payment of customs taxes, in whole or in part, that does not constitute contraband under the terms of this diploma, or that causes to transit through the customs or to be removed from them any merchandise without submitting said merchandise to the competent dispatch formalities, or by giving false indications.
2. The same fine shall be applicable under the same conditions when,
 - a) without such being considered a crime, there is a violation of the legal discipline of the suspensive customs regimes or of any other special regime that concedes fiscal benefits, facilitates, restricts or prohibits the titularity, presentation, discharge, deposit, utilization or destination, transit and merchandise circulation;
 - b) there has been deviation from the end foreseen in the customs regimen applied to the merchandise;
 - c) separate components of the same artifact are imported through various sets of dispatch forms so that after the artifact is assembled locally it gives the illusion of forming a new product, in order to illude tributary assessment on the import of the finished artifact; or if it is destined to permit the importer to evade the application of merchandise contingency norms;
 - d) the special dispositions that especially qualify the act as straying are violated.

Article 52

(Qualification and Award of Privilege)

1. If the merchandise object of straying is a conditioned import or export, the fine shall be ecv 75.000\$00 to 4.000.000\$00.
2. If the value of the merchandise is less than ecv 10.000\$00, the competent entity can exempt the perpetrator from the fine.

Article 53

(Opposition to Verification and Examination)

A fine of ecv 25.000\$00 to 350.000\$00 shall be applied to whosoever refuses to surrender or present written account, declarations and documents, or refuses to present the merchandise to entities authorized to investigate and instruct processes of infraction foreseen in the present diploma, or impede or make difficulty any verification or exam ordered by a competent customs official. The fine applies only when the action described above does not constitute customs fiscal crime or straying.

Article 54

(Irregular Circulation of Merchandise)

1. A fine of ecv 10.000\$00 to 1.000.000\$00 shall be applied to the infraction foreseen in subparagraph a) of n. °1 of article 33 if the merchandise in question is not foreign, in accordance with the applicable legal or conventional dispositions.
2. The competent entity can exempt the infractor from the fine if the value of the merchandise is less than ecv 5.000\$00.

Article 55

(Negligent Acquisition)

Unless a heavier sanction is applicable, a fine of ecv 10.000\$00 to 200.000\$00 shall be applied to whosoever, without ascertaining its legitimate origin, acquires or receives, at any title, things that by their quality or the condition of who offers it, or by the proposed price, leads to a reasonable suspicion that it is a merchandise object of customs fiscal crime or straying.

Article 56

(Other Contra-ordinations)

1. For the purposes of the juridical regime instituted by the present diploma, the facts that are considered by law or by other normative acts as customs fiscal transgressions but can not be integrated in the dispositions that define crimes or contra-ordination, shall be considered contra-ordinations.
2. A fine of ecv 500\$00 to 100.000\$00 shall be applied to whoever practices the infractions referred to in the preceding number except if those infractions are punishable with a heavier fine. In such cases, the heavier fines shall apply.
3. For the purposes of this article, negligence is punishable.

SECTION II

Dispositions Applicable to Customs Fiscal Contra-ordinations

Article 57

(Attempts)

Straying attempts are punishable.

Article 58

(Measures of the Fine)

1. Among other factors, the measure of the fine shall be determined as a function the following circumstances:
 - a) gravity of the contra-ordination;
 - b) degree of illicitness and guilt of the perpetrator;
 - c) economic situation of the violator;
 - d) economic benefit resulting from the practice of the infraction;
 - e) practice of the infraction.
2. The amount of the fine to be applied to a customs fiscal contra-ordination shall never be less than one and a half times the value of the affected merchandise in the internal market, at the time the infraction is committed, without prejudice to the provisions of the final part of n. °1 of article 47 of the present law.
3. The dispositions of n. ° 2 of article 47 are equally applicable.

Article 59

(Accessory Sanctions)

Besides the fine, whosoever practices contra-ordination as foreseen in the present diploma can be punished with one or more of the accessory sanctions called for in the base law of contra-ordinations.

PART III

Of Apprehension, Losses and Guarantees

Article 60

(Apprehension of Merchandise)

1. All merchandise object of customs fiscal crime and straying, shall be apprehended.
2. In the remaining contra-ordinations the apprehension shall take place under the terms and conditions foreseen in the contra-ordinations base law.

Article 61

(Loss of Merchandise)

1. The apprehended merchandise shall be declared lost to the National Estate, if dealing with the customs fiscal crimes foreseen in the articles 32, 33, 34 and 38, save if they belong to a duly identified person, to whom responsibility for the crime cannot be attributed.
2. If the provisions of the final part of the preceding number are verified, or if the merchandises have not been apprehended, the violator shall be responsible for an amount equal to their value, save when the value cannot be determined. In such cases, the perpetrator shall pay an amount to be fixed by a court, never greater than ecv 1.500.000\$00.
3. In the contra-ordination infractions, the merchandise is not lost to the National Estate and it can be restituted when the penalties due are paid. If the merchandise belong to the violator, it can be restituted to the owner after the process indebtedness is paid
4. The loss shall never be decided upon without first hearing the interested parties.

Article 62

(Reversion)

Except for the cases in which, by law, reversion is obstructed, the interested parties can request reversion of merchandise subject to loss to the National Estate, once they have paid the respective fines and other process penalties due and an amount equal to the value of the merchandise.

Article 63

(Apprehension and Loss of Means of Transportation)

1. The means of transportation utilized to commit customs fiscal infractions shall be apprehended.

2. If the customs fiscal crimes are those referred to in articles 32, 33, 34 and 38, the means of transportation are considered lost to the National Estate, if the merchandise object of the infractions is valued at more than ecv 1.500.000\$00 and the means of transportation constitutes the most valuable part of the respective cargo. The means of transportation will not be lost to the National Estate if it was utilized without the knowledge or negligence of the owner.
3. The provisions of the preceding number shall apply when the customs fiscal crime committed is one of those referred in article 36, if the maximum limit of the applicable penalty is equal to or greater than the penalty foreseen for the infractions pertaining to articles 32, 33 and 34. The same applies in the case of straying.
4. When the circumstances referred to in the final part of number two of article 61 are verified.

Article 64

(Apprehension and loss of weapons and other instruments)

1. The weapons and other instruments utilized to commit customs fiscal infractions shall be apprehended, and declared lost to the National Estate. If weapons are not the case and the circumstances referred to in number 2 of the preceding article are verified, the dispositions of number 4 shall apply.
2. If the instruments are not weapons, the dispositions of article 62 shall apply, with the necessary adaptations.

Article 65

(Restitution)

1. Under the terms of the preceding articles, if loss is not called for, and apart from the cases under which the law prohibits reversion, the merchandise, the means of transportation and other instruments used in the infraction shall be restituted to their owners
 - a) as soon as their value have been bonded and the duties and additional impositions and expenses incurred have been paid along with the payment for its conservation, security and transportation; or
 - b) as soon as the non-pronouncement dispatch that the process has transited to judgement or equivalent; or the final absolution decision is issued; or as soon as the Public Minister abstains from deducing accusation or the competent contra-ordination authority decides to retire the process and demonstrates that it is not necessary to pay the customs tributation.
2. The provisions of the preceding number does not apply to weapons utilized in committing the infraction.

Article 66

(Storage and Immediate Sale of Apprehended Merchandise)

1. The merchandise, the means of transportation, the weapons and other instruments used in the infraction shall be stored in the customs installations unless the latter cannot receive them for lack of material conditions or it cannot effect their immediate transportation to those installations.
2. If the circumstances referred in the final part of the preceding number are verified, except for the weapons and other instruments used in the infraction, which shall remain under the custody of agents of the authorities, the apprehended merchandise shall be listed and described, and entrusted to a trustworthy depository. The respective terms shall be prepared from the list, signed by the apprehenders, witnesses if there are any, and the depository, who will keep a duplicate.
3. If there is no trustworthy depository in the place of apprehension the merchandise shall remain under guard by agents of the authorities.
4. When the goods referred to in this article are perishables, or when the public interest so justifies, it can be sold immediately. The decision to sell shall be made within two days.
5. The sales operation shall be carried out at the customs installations, in accordance with the applicable laws. The proceeds from the sale shall be deposited to the order of the respective process.
6. If the final decision does not decree a loss, the proceeds from the sales shall be remitted to the injured party.

Article 67

(Guarantee of Payment)

1. The merchandise, the means of transportation and the values apprehended from an accused or a suspect, as well as the amounts that represent them, are considered guarantee of payment of the pecuniary sanctions, the duties and additional impositions, as long as their loss has not been decreed.
2. If the merchandise and the other values referred to in the preceding number belong to people without any responsibility in the infraction, the same shall respond only for the duties and additional impositions.
3. Baggage and any other goods and valuables not related to the customs fiscal process, that are deposited in the customs under customs' regime or freely, and in any other location under fiscal action, also constitute guarantee of payment for the amounts the accused or any one else responsible who may eventually have to answer for the merchandise infraction.
4. The merchandise and other goods referred to in the preceding number are considered under arrest and will be returned only if their value or this responsibility are duly bonded.

5. Likewise, the merchandises shall not be returned without the bond referred to in the preceding number, whose knowledge of, letters of ownership or any other property titles that have been endorsed by the accused or others responsible for the infraction subsequent to the notification of the dispatch pronouncement, in the case of a crime, or equivalent dispatch, in the case of a contra-ordination; or over which they, the firms or enterprises they may belong to, may have organized any commercial operation.

PART IV

Of the Process

CHAPTER I

General Dispositions

Article 68

(Penal Action)

The penal action pertaining to the customs fiscal infractions shall be exercised under the terms of the penal process legislation in effect, with the specialties contained in the dispositions of the present diploma.

Article 69

(Contra-ordination Action)

The process pertaining to the customs fiscal contra-ordinations shall be regulated by the norms contained in the contra-ordination base law with the specialties incorporated under the dispositions of the present diploma.

Article 70

(Fiscalization and Preventive Measures)

1. The customs technical and auxiliary staff and fiscal officials, preceded always by the authorization of their hierarchic higher ups, except in the cases of proven urgency or flagrant *delitum*, are competent to proceed during the day with apprehension, searches, examination of the books, documents, merchandise and contraband searches in any means of transportation, establishment, store warehouse or enclosed installation that is not a domicile.
2. If crime is suspected, the searches, reviews and apprehensions shall be carried out under the terms and with the limitations fixed by penal law.
3. If the diligence is effected before nightfall, it can be concluded during the night.
4. In the case of an establishment, stores, warehouses, or enclosed installations that are not domiciles, and during its normal operating schedule, or in the case of a means of transportation in circulation, the diligences referred to in number one of the present article can be carried out at night.
5. When the diligence is carried out in airplanes or foreign ships on regular routes it shall be witnessed by the consular representative of the respective nationality, if there is one, except when this presence is expressly dispensed with by the aircraft commander or the ship's captain, or, in the case of the consular representative, when he is duly convoked and does not show up nor does he/she make himself represented, or when there is a pursuit of the violators in flagrant *delitum* who seek refuge in those vessels.

Article 71

(Cautionary Providences Regarding the Means of Proof)

1. To prevent erasing or altering the vestiges of the infraction before they are examined by the legally competent entities, any agent qualified to participate in the customs fiscalization can, independently of the presence or authorization of the competent entity, prohibit, if necessary, the entry or the transit of strangers in the location where an infraction or any other acts that can prevent uncovering the truth, has been committed.
2. With the same objective of securing the means of proof, any agent qualified to carry out or collaborate in customs fiscalization, independently of the presence or the authorization referred to in number one of this article, can act to maintain the status quo of the locations and collect information that will facilitate the discovery of the infractor or the reconstruction of the infraction, and take the cautionary actions regarding the objects subject to apprehension.

Article 72

(Notification of Infraction)

When any employee or agents of the General Directory of the Customs, the Fiscal Guard, the Public Order Police, or any authority or agent of the authority witnesses any customs fiscal infraction, he/she shall proceed to apprehend the merchandise, means of transportation, weapons and other instruments utilized to commit the infraction prepare the competent report to police under the terms and conditions required by law.

Article 73

(Flagrant *Delitum*)

When the infraction is punished with imprisonment, the entities referred to in the preceding article shall detain the violator found in flagrant *delitum* and present him/her to the competent judge, in accordance with penal law.

Article 74

(Participation)

1. The entities referred to in article 72 that have knowledge, in any form, of facts that may constitute customs fiscal infraction must report them to a court or competent entity:
2. The report can be made verbally or in writing and is not subject to special formalities.
3. The verbal report is then written and signed by the reporter and by the entity that receives it.

Whenever possible, the report shall contain:

- a) complete description of the infraction, day, hour and location where it was committed;

- b) name, civil status, profession, residence, age and place of birth of the violator as well as any other elements that may serve to identify the infractor;
- c) name(s) of witness(es);
- d) the quality, quantity, value and the presumable destination of the merchandise, means of transportation, weapons and other pertinent instruments and anything else that may contribute to discovering the perpetrators of the infraction.

CHAPTER II

Dispositions Regarding the Criminal Process

SECTION I

Of the Infractions in Common Criminal Process

Article 75

(Direction and Assistance in the Instruction)

The customs entities and fiscal agents will assist the judge and the Public Ministry in the direction and conclusion of the investigation of the customs fiscal crime infractions. For the duration of the investigation the referred entities and fiscal agents shall remain under the functional direction of the judge and the Public Ministry.

Article 76

(Requisition and Delegation of Infraction Process)

The management of customs fiscal crime processes can be delegated to competent customs authority. Processes that, by law, have to be managed by a judge or the Public Ministry can not be delegated.

Article 77

(Civil Responsibility)

Along with the accusation for the crimes foreseen in the present diploma, or within the time frame in which the accusation must be formulated, the Public Ministry shall issue the condemnation request of the responsible civilians, if any, and shall always indicate the value of the merchandise and means of transportation that have been apprehended and other instruments of the crime.

Article 78

(Pronouncement Dispatch or Equivalent Sentence)

1. Aside from the requisites demanded by the general penal law, the pronouncement dispatch or equivalent and the sentence shall always indicate the value of the merchandise, means of transportation and other apprehended instruments of the infraction.
2. Under the terms of articles 96 n. ° 1 and article 97, when called for the sentence shall also contain a declaration of loss of merchandise and other goods or crime instruments and the distribution of the fines and the sales proceeds.
3. The court shall send a copy of the pronouncement dispatches or equivalent and the condemnation decisions proffered in the process for customs fiscal crimes to the General Customs.

SECTION III

Transaction Process

Article 79

(Presumptions)

1. Should the customs fiscal crime is punishable with imprisonment periods longer than one year, or with only a fine, and if the proceeding does not depend on a particular accusation, when the Public Ministry feels that a fine must concretely be applied it shall request to the court that the fine be applied to the transaction process.
2. There shall be no transaction process in repeat offenses.

Article 80

(Requests to the Public Ministry)

1. The request to the Public Ministry must be in writing and shall identify the accused, describe the facts imputed to him/her and refer to the laws violated, the existing proof and a present a summary description of the reasons why an imprisonment penalty should not concretely be applied to the case.
2. The request ends with the precise indication of the proposed applicable sanction and, if such be the case, of the civil indemnity request.

Article 81

(Rejection Dispatch)

1. If there is a reason to reject the request of the Public Ministry the court shall emit a dispatch to return the case to the applicable process form.

2. If the case is returned to another process form, the request loses its efficacy and the Public Ministry does not remain committed to whatever it may have proposed on the request.

Article 82

(Hearing and Sentence)

1. If the court does decide to reject the request, the Public Ministry notifies the accused to appear, on the date, time and location it indicates, accompanied by a defender if he/she so desires.
2. On the established date, the court informs the accused of the context of the Public Ministry request, asks if the accused accepts the proposed sanction, augmented by the civil indemnity, the justice tax and costs and clarifies that a negative response will imply sending the case to another process form.
3. If the accused accepts the proposal, the judge orders the signed written declaration of the accused registered and proffers an agreement dispatch with the Public Ministry request, to which will be added the condemnation in justice tax and costs, cut in half.
4. The disposition of the preceding number does not exclude, when such is the case, the indication under the terms of the present diploma, the requisites demanded by for the sentence.
5. The dispatch referred to in number three of the present article is the same as a guilty sentence and transits immediately to judgement.

Article 83

(Assistance and Civil Parts)

1. In a transaction process, assistance intervention and intervention by the civil parts are not allowed.
2. However, before preparing the request, the Public Ministry is bound to hear the persons it could constitute as assistants or that think themselves already constituted as such.

CHAPTER III

Of the Acts in the Contra-ordination Processes

Article 84

(Coercive Means and Prohibition of Proof)

1. In the contra-ordination processes, preventive arrest, interference in correspondence, telecommunications or proofs that imply violation of professional secrets, are not permissible.

2. The proofs that collide with the privacy of personal life, corporal examinations and blood proofs shall be admissible only with the consent of the legally competent entity.

Article 85

(Competent Entities)

The following entities are competent to apply the respective fines in customs fiscal contra-ordination processes:

- a) The Customs General Director;
- b) Directors of the customs circumscriptions;
- c) Customs Directors
- d) Heads of Customs Delegations.

Article 86

(Territorial Competence)

1. The Directors of the Customs Circumscriptions are competent in their respective areas of jurisdiction, with the exception of the areas that are included in the jurisdiction of the entities referred to in the numbers that follow.
2. The Customs Directors are competent in the area of the city or village where the respective customs house is located, its ports, airports, enclosures, interposts and customs repositories and frank zones.
3. The heads of the Customs Delegations are competent in their respective areas of jurisdiction
4. The territorial competence is determined either by the location where the infraction is committed or discovered or where the merchandise object of the infraction is apprehended.

Article 87

(Rights and Duties)

1. The entities competent for the purposes established in article 85 shall proceed to the investigation of the infraction and the circumstances that preceded, accompanied or followed them.
2. Save in the cases of proven and fundamented complexity, in which there shall be prorogation for equal periods, the instruction shall be concluded in no more than 45 days counted from the date the infraction was first known.
3. The investigation and the instruction may be delegated to the police authorities and fiscal agents, who, upon completion of the process, shall remit the same to the competent authorities for the decision.

Article 89

(Dispensing With the Instruction)

1. When, in the course of the process and formalities of customs dispatch, or in the face of the participation of the transcript notice, the elements needed for a decision are given as proven, the instruction of the process can be dispensed with in a fundamented dispatch.
2. However, the decision shall never be proffered without hearing the accused. In such case, the accused can always add or request any means of proof, and, in the case of the accusation or transcript notice, the agents and the responsible civilians shall be notified to rebut within ten days, if they so desire.
3. Annexed to the rebuttal, the competent entity shall evaluate the proof produced and shall decide accordingly.

Article 90

(Remitting the Process to the Public Ministry)

1. If during the infraction appraisal investigation and its perpetrators, the competent entity comes to the conclusion that the infraction is criminal, it shall remit the process to the Public Ministry.
2. If the Public Ministry considers that there is no criminal responsibility, it shall return the docs to the same entity that remitted them.

Article 91

(Hearing the Accused)

It is mandatory to hear the accused during the infraction instruction process. The accused can present or request any means of proof.

Article 92

(Defender)

The accused has the right to be represented and accompanied by an attorney during any phase of the process, or to request the appointment of a public defender.

Article 93

(Recourse for the Customs Fiscal Tribunal)

1. Recourse for the decisions proffered in the contra-ordination processes shall go to the territorially competent customs fiscal tribunal.
2. The recourse shall be interposed within eight days counted from the date of the impugned decision. If a fine is applied, recourse causes suspension of execution of the interposed decision.

3. In all else, the recourse shall obey the dispositions of the contra-ordination base law, with the necessary adaptations.

Article 94

(Recourse to the Supreme Court of Justice)

1. Recourse of the final decisions or sentences proffered by the customs fiscal tribunal to the Supreme Court of Justice is admitted if the fine applied by the latter or by the competent administrative entity is greater than ecv 1.000.000\$00.
2. Recourse to the Supreme Court of Justice is circumscribed to matter of jurisprudence and follows the terms laid out in the Penal Code for summary process, as long as it does not countermands the dispositions of this diploma.

Article 95

(Revision)

Revision recourse is admitted, under the terms and within the limits defined in the contra-ordinations base law.

CHAPTER IV

Of the Distribution of the Fines and Proceeds From Sales

Article 96

(Distribution of the Penalties and Pines)

1. The amount of the penalties shall be divided and distributed as follows:
 - a) 25% to the National Estate;
 - b) 25% to the Coeffers of Justice;
 - c) 25% for the “**autoantes (?)**”
 - d) 25% for the Customs General Directorate
2. The amount of the fine shall be divided as follows:
 - a) 25% to the National Estate
 - b) 25% for the “autoantes” or participants;
 - c) 50% for the coffers of the Customs General Directorate

3. The customs technical employees and the external fiscal agents who, in the performance of any investigations, inspections, syndication or other analogous commissions not included in their normal duties, participate in some infraction, have the right to half the percentage referred in subparagraph b) of the preceding number.
4. If there was a denunciation, then 50% shall go to the denouncer the "autentes" or the participants.

Article 97

(Distribution of the Sales Proceeds)

1. The proceeds from the sale of merchandise, means of transportation and any other instruments of infraction shall revert to the National Estate.
2. When the penalty or fine are not paid, the proceeds from the sales shall be distributed in accordance with the preceding article, up to the limit of the applied sanction, after the charges referred to in article 111 are paid.

Article 98

(Limits of the Participation in the Fines)

1. If under the terms of the preceding articles the persons with the right to a percentage of the amount of the applied fine are public employees, in each process they cannot receive an amount greater than their annual salary, after the emoluments.
2. The excess amount shall revert to the National Estate.

Article 99

(Decision to Distribute)

1. In contra-ordination processes the authority that has instructed the process is competent to determine the distribution referred to in the preceding articles, after the condemning decision has transited in judgement.
2. In customs fiscal crime processes, the dispositions of number 2 of article 78 shall be observed.

CHAPTER V

Of the Voluntary Payments, the Execution and the Costs

Article 100

(Voluntary Payment of the Penalty)

1. In the infractions described in the present diploma are punished solely with a fine, not followed by a transaction process, the violator can be permitted to pay one fifth of the maximum penalty attributed, in addition to the process costs.
2. The request for voluntary payment must be presented up to start of the trial hearing, accompanied by the corresponding amount that the interested party must deposit along with the duties and additional impositions due.
3. Exceptionally, the amount of voluntary payment can be reduced by fundamented dispatch from the judge, but the amount cannot be less than one eighth of the maximum applicable fine.
4. It is of the exclusive competence of judge to decide on the request for voluntary payment, after hearing the Public Ministry.
5. If, attending to the gravity of the act, the degree of guilt, the economic condition and the personality of the perpetrator, the judge determines not to admit voluntary payment of the fine, it shall be so declare in fundamented dispatch, without recourse, and the process shall be ordered to proceed.
6. The decision to accept the voluntary payment ends the accused's responsibility and is not subject to recourse.

Article 101

(Plurality of Accused)

If there are several accused and only one or some make the voluntary payment, they shall be dealt with in accordance with the preceding article. The process shall continue for the remaining accused, without prejudice to any joint responsibility that may still exist.

Article 102

(Voluntary Payment of the Fines)

1. Voluntary payment of the contra-ordination fines described in the present diploma is allowed.
2. The request for voluntary fine payment is addressed to the competent authority up to ten days after notification to depose or to contest. In the event of judicial impugnation of the decision that may have been applied, the request for voluntary payment is addressed to the judge, before the recourse is definitively decided on.

3. With the request for voluntary payment, the interested party should deposit an amount equal to one tenth of the maximum fine allowed for the respective legal type, augmented by the amount of the fees and additional impositions due for the practice of a contra-ordination infraction.
4. Exceptionally, the amount of the payment can be reduced by a fundamented dispatch from the competent entity. It can not, however, be less than one tenth of the maximum applicable fine.
5. Once the fine is paid voluntarily as described in this article, only accessory sanctions can be paid, additionally, in the cases of straying. It is up to competent entity to apply the sanctions and to decide or not on the loss of the means of transportation.
6. The decision to accept voluntary payment of the fine ends the responsibility for the contra-ordination infraction and is not subject to recourse.
7. The dispositions of the preceding article and of number 5 of article 100 are applicable, with the necessary adaptations.

Article 103

(Liquidation Request)

1. In contra-ordination infractions, the accused can request, at any stage of the process, the liquidation of his responsibility. After hearing the accused, the competent entity can immediately issue a decision, condemning or absolving.
2. Recourse over the decisions referred to in the preceding number is allowed under the terms of this diploma.

Article 104

(Costs)

1. Once the condemning decision has transited to judgement, the process shall be counted within ten days and the accused are immediately notified to pay the amount due within fifteen days.
2. If the payment is not effected in the period established in the previous number, the person responsible before the civil authorities should be notified to deposit the amount attributed to his responsibility within fifteen days.
3. In the customs fiscal crime processes, the costs shall have destination and regimen fixed under the general law, except when it countermands this diploma.
4. In contra-ordinations processes the costs shall revert to the coffers of the Customs General Directorate.
5. Recourse to the customs fiscal tribunal is allowed in the decisions of the competent administrative entities regarding complaints in the matter of the costs due in contra-ordination processes.
6. In all other cases, costs regimen shall obey the dispositions of the contra-ordination base law if it does not countermand the present diploma.

Article 105

(Execution)

1. Patrimonial execution shall begin at the end of the deadlines established in the preceding article.
2. If neither the accused nor the responsible civilian liquidate their responsibilities for contra-ordination within the established deadlines, the liquidation shall be executed :
 - a) From the amounts and values deposited in the process;
 - b) From the proceeds of the sale of merchandise, means of transportation and other instruments of the infraction not declared lost to the National Estate;
 - c) From the proceeds of the sale of merchandise, baggage and other goods that they have in the customs or any other location subject to fiscal action, or of which they are receivers or co-signers

Article 106

(Returns to the Execution Tribunal)

1. If the results obtained under the terms of the preceding article does not correspond to the amounts due, after the distribution of the amount that has to be executed, a certificate shall be issued indicating the decision or sentence, the account, the dates of the respective notifications and the amounts obtained in the sales effected and remitted to the fiscal execution courts of the area where the accused resides. There the competent execution shall be instated in accordance with the applicable legal precepts.
2. If there is more than one accused, the execution shall be instituted in the tribunal of the area where the highest number of accused reside.
3. If the accused domicile area is not known, or if there are several accused and an equal number of them reside in different areas, or if none of the accused reside in Cape Verde, the execution shall be instituted in the tribunal of the area where the customs fiscal process occurred.

Article 107

(Insufficiency of the Sales Proceeds and Deposited Goods)

The preceding article shall apply whenever it is evident that the sale proceeds and the amounts deposited are less than the amount due the indication of the amounts actually obtained in the auctions shall be replaced with that of the probable sales proceeds and the deposited amounts and values.

Article 108

(Deposit of the Product of the Execution)

The amounts obtained as a result of the execution shall be deposited to the order of the instituting authority. The court shall inform the instituting authority of the result of the execution.

Article 109

(Execution Against the Civil Responsible)

If the civil responsible does not make the deposit referred to in number 2 of article 104, the decision becomes immediately executable and the action against said civil responsible shall proceed in accordance with the preceding articles, as applicable. The paid amount shall be subrogated to the National Estate regarding the right of regress.

Article 110

(Subsidiary Application of the General Law)

The execution of anything that is not especially regulated in the present diploma shall obey the dispositions of the Penal Code, if crimes, and the base-law, if contra-ordinations. Where the contra-ordination base-law is not applicable, the Penal Code shall apply.

Article 111

(Expenses With the Instruments of Infraction)

The expenses with transportation, security and conservation of apprehended merchandise, means of transportation, weapons or other instruments shall be paid by the perpetrators.

The Minister of Economic Coordination, *António Gualberto do Rosário*