

Official determination nº 16/99

Official Bulletin 1, II Series

of 03 January 2000

I promulgate, under the final part of point 4, article 4, and 29 of Decree-Law 5/99, of February 1, the Protocol signed between the General Administration of Commerce and Industry, about the delegation of competence for the concession, delegation, suspension or revocation of previous authorization to exercise the wholesale activity.

Publish on Series II of the Official Bulletin.

Ministry of Commerce, Industry and Energy, November 26, 1999. - The Minister, Alexandre Dias Monteiro.

**Protocol mentioned on point 3, article 29 of the Decree-law 5/99, of
February 1**

Between

The General Administration of Commerce and Industry, represented by its General Director, Dr. Filomena Fialho, designated from now on as General Administration;

and

The Chamber of Commerce, Industry, Agriculture and Services of Windward, represented by its President, Mr. Edmundo St'Aubyn Carvalho, from now on designated as Chamber;

is celebrated the following Protocol that follows the articles below:

Article 1 Object

By the present protocol, the General Administration of Commerce and Industry delegates, under n.3, article 29 of the Decree-law 25/99, of February 1st, in the Chamber of Commerce, Industry and Services of Windward, the competence to grant, renew, refuse, suspend or revoke the previous authorization for the exercise of wholesale and commercial agent activities in

the jurisdiction area of the mentioned Chamber, is defined under the terms of the delegated powers.

Article 2

Delegation

The Chamber may sub-delegate, in conciliation with the General Administration, and case by case, the competence that is delegated to it, under the previous article.

Article 3

Reference to the quality of delegate

The Chamber must mention the legal basis for the usage of the delegation.

Article 4

Faculty of the delegating organism

The delegating organism may:

- a) issue guidelines or binding instructions about the way the delegated powers must be exercised;
- b) appeal the process;
- c) revoke acts practiced under the delegation.

Article 5

Exercise of the delegation by the Chamber

The Chamber exercises the delegated competence through its Managerial Council.

Article 6

Obstacles

No member of the Chamber's Managerial Council may intervene in the administrative procedure relative to the previous authorization, in the following cases:

- a) When he is interested in it, by himself, as representative or manager of someone else's business;

- b) When, by himself, or as representative of another person, his consort or any close relative is interested in it.

Article 7 **Excuse and suspicion**

1. The member of the Managerial Council must request exemption from intervening in the procedure, in case one can reasonably suspect his exemption or the rightness of his conduct and, namely:

- a) when by himself or as representative of another person, his close relative is interested;
- b) if there is serious animosity or great intimacy between the member of the Chamber or his consort and the person directly interested in the procedure.

2. Any interested person may oppose suspicion to any members of the Chamber that intervene in the procedure.

Article 8 **Extinction of the delegation of competence**

The competence within the scope of the present protocol extinguishes by its revocation.

Article 9 **Sanction**

The acts in which members of the Chamber intervened are cancelable.

Article 10 **Signature of the authorization certificate**

The signature of the authorization certificate belongs to the President of the Chamber's Managerial Council or his representative and it cannot be done by seal.

Article 11 **Proceeds collection**

1. The proceeds collected by the different services executed by the Chamber, under the terms of the law, must be deposited immediately after the collection, in the account of Treasury (provisory account) open at the agencies of BCA or CECV.
2. For the purpose of the previous number's provision, the General Administration of Treasury (GAT) will give to the Chamber the Treasury's account numbers that must receive the deposits.
3. After the deposit, for accounting purposes, the Chamber will send to the DGT a copy of the bank stub accompanied with a note indicating the nature of the collected and deposited proceeds.
4. The collected proceeds will be transferred by Treasury, to the Chamber, according to public accounting norms.

Article 12 **Requisition of officers**

1. The General Administration compromises itself to authorize that its officers are requisited to work at the Chamber within the scope of the competences now delegated, upon request, and under the precise terms of the law.
2. For the purposes of the previous number, the Chamber will always indicate the profile of the officers it needs, as well as the salaries and other privileges it may offer.

Article 13 **Transfer of processes**

The General Administration will send to the Chamber, within 15 days after the promulgation of this Protocol, all the processes of wholesale operators and commercial agents exercising the activity.

Article 14 **Duty to inform**

1. The Chamber will send monthly, to the General Administration, the list of authorizations granted, renewed, refused, suspended, or revoked.
2. The Chamber is obligated to provide, whenever solicited by the General Administration, all the information necessary to the dossier of the commercial

establishments and follow up of the execution of the present competence delegation.

Article 15
Utilization of forms

The Chamber is obligated to utilize forms approved by official determination of the Government member in charge of the trade sector in the services related with competence delegation.

Article 16
**Services rendered by the officers of the General Administration
to the Chamber**

1. While the law that provides for the requisition of officers for the private sector is not published, the General Administration is responsible for authorizing that its officers render services to the Chamber, within the scope of the competences now delegated.

2. The General Administration will be responsible for the charges with the payment of the officers' remunerations mentioned on the previous number, for a maximum period of six months.

Article 17
Enforcement

The present Protocol comes into force 20 days after the date of its publication on the Official Bulletin.

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Written in the city of Mindelo, on October 9, with two copies

The General Administration of Commerce and Industry and the Chamber of Commerce, Industry, Agriculture and Services of Barlavento, *Filomena Victoria Fialho - Edmundo St'Aubyn Carvalho*