

## PRE-SHIPMENT INSPECTION OF IMPORTS DECREE 1978



### Decree No. 36

[1st January 1979] Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

#### *Pre-shipment Inspection of Imports*

1.—(1) As from the commencement of this Decree, no goods to which this Decree applies shall be imported into Nigeria unless a Clean Report of Findings has been issued in respect of such goods to the overseas sellers of the goods by the inspecting authority referred to in section 4 of this Decree :

All import  
goods liable  
to mandatory  
pre-shipment  
inspection.

Provided that this subsection shall not apply to any such goods if—

(a) the importation thereof is covered by established irrevocable letters of credit acceptable to the Central Bank opened on or before 12th December 1978 ; and

(b) where the shipment is by sea, the carrying vessel departs from the port of loading on or before 31st January 1979 or, where the shipment is by any other means, the goods arrive in Nigeria on or before the aforesaid date,

but for the avoidance of doubt, where only part of a consignment of the same goods is so shipped, the remainder of such goods shall, where applicable, be subject to inspection as provided under this Decree.

(2) For the purposes of the Exchange Control Act 1962 and of subsection (1) of this section, any person intending to import any goods to which this Decree applies shall before shipment of such goods to Nigeria furnish the Central Bank the particulars specified in the Schedule to this Decree together with such additional information as the Central Bank may specify from time to time and, for this purpose, the Central Bank may issue such forms as it thinks appropriate for the use of importers.

1962 No. 16.

(3) The importer of the goods shall instruct the overseas seller of such goods to give the inspecting authority full access thereto in order to facilitate the carrying out of the functions imposed on the authority by or pursuant to this Decree and in particular the following stipulations shall be contained in such instructions, that is to say—

(a) that the seller shall give not less than 14 days' notice to the inspecting authority prior to the proposed date of the pre-shipment inspection ;

(b) with respect to the carrying out of the pre-shipment inspection, that the seller shall provide the inspecting authority a copy of the *pro forma* invoice, indent, purchase order, price list, letter of credit, contract agreement and any other document relevant to the transaction which the inspecting authority may consider necessary for the proper carrying out of the inspection ;

(c) that the seller shall provide all necessary facilities to the inspecting authority to enable the authority carry out quality and quantity inspection and price comparison and to conduct all such tests, analyses and other processes as may be required in the circumstances ;

(d) that the seller shall make all necessary arrangements for the handling, presentation (including unpacking and repacking), sampling, shop-testing and any other thing required in connection with the inspection of the goods ;

(e) that the seller shall submit to the inspecting authority a copy of the final invoice covering the goods ;

(f) that the seller shall comply with such other conditions as may be prescribed.

(4) The goods which shall be liable to inspection outside Nigeria by the inspecting authority before shipment of such goods to Nigeria and the type of inspection to which any such goods or categories thereof shall be subject are as specified in the following provision of this section and the expression, "pre-shipment inspection" wherever used in this Decree, shall be construed accordingly.

(5) Goods liable to pre-shipment inspection with respect to quality and quantity and price comparison thereof are all goods other than goods of the following descriptions, that is to say--

(a) gold ; precious stones ; art works ; explosives and pyrotechnic products ; arms and ammunition ; weapons ; implements of war ; scrap metal ; newspapers and periodicals ; household and personal effects including used motor vehicles ; parcel post or samples ; meat in any form except frozen or tinned meat ; eggs ; live-animals ; fresh, chilled, frozen or tinned fruits, vegetables and fish ;

(b) petroleum and refined products thereof ; and

(c) such other goods as may be prescribed.

(6) The expenses incurred by the inspecting authority pursuant to paragraph (d) of subsection (3) above shall be borne by the overseas seller of the goods concerned.

#### Issuance of Clean Report.

2.—(1) Where after inspecting the goods the inspecting authority is satisfied that all requirements as to quality and quantity and price of the goods have been complied with, the authority shall issue the overseas seller of such goods a document to be known as a "Clean Report of Findings" ; and where the inspecting authority is not so satisfied, it shall issue a document to be known as "Non negotiable Report of Findings" in respect of the goods.

(2) Where the seller, subsequent to the issuance of a Non-negotiable Report of Findings, makes the necessary adjustments, the inspecting authority may issue a Clean Report of Findings in respect of the goods concerned.

3.—(1) Every Clean Report of Findings issued under this Decree shall be attached by the seller to all the relevant shipping documents.

Effect of  
Clean Report.

(2) For the purposes of the Exchange Control Act 1962, no payment shall be made in Nigeria to the credit of any person outside Nigeria by or on the authority of the Federal Ministry of Finance, the Central Bank or any licensed bank in Nigeria in respect of goods liable to pre-shipment inspection which are imported into Nigeria, unless a Clean Report of Findings in respect thereof is presented together with the shipping documents.

1962 No. 16.

### Administration

4.—(1) For the purpose of carrying out any pre-shipment inspection required by or pursuant to this Decree, the company mentioned in subsection (2) of this section is hereby appointed as the inspecting authority :

Appointment  
of inspecting  
authority.

Provided that nothing in this Decree shall be construed as preventing pre-shipment inspection aforesaid of any goods (whether or not goods of the description mentioned in this Decree) by any department or agency of the Government of the Federation or of a State or of any statutory body (corporate or unincorporate) established by any such government or any accredited representative of any such government or by any importer or his authorised agent.

(2) The company referred to in subsection (1) of this section is the *Societe Generale de Surveillance S. A.* of Geneva, Switzerland, together with all its subsidiaries, affiliates, agents and other authorised representatives thereof.

5.—(1) The Central Bank shall be charged generally with the responsibility of administration of the provisions of this Decree.

General  
administra-  
tion of this  
Decree.

(2) For the purposes of assisting the Central Bank in the discharge of its functions under this Decree, there shall be established by the Commissioner, a Technical Committee comprising a representative of the Central Bank as Chairman thereof and a representative of each of the following, that is—

- (a) the Federal Ministry of Finance ;
- (b) the Federal Ministry of Industries ;
- (c) the Federal Ministry of Trade ; and
- (d) the Department of Customs and Excise.

6.—(1) The Technical Committee shall meet not less than four times in each year and on such other occasions as it may consider necessary.

Proceedings  
of Technical  
Committee.

(2) At any meeting of the Technical Committee the Chairman shall preside.

(3) The quorum for meetings of the Technical Committee shall be the Chairman and two other members.

(4) The Technical Committee shall have power to regulate its proceedings and may make standing orders for that purpose and, subject to such standing orders, may function notwithstanding any vacancy in its membership or the absence of any member.

(5) Where the Technical Committee desires to obtain the advice of any person on a particular matter, it may co-opt him as a member for such period as it thinks fit ; but a person who is a member by virtue of this subsection shall not be entitled to vote at any meeting of the Committee and shall not count towards a quorum.

(6) There shall be a Secretary to the Technical Committee who shall be an official of the Central Bank designated as such and the secretariat of the Committee shall be located in the Central Bank.

#### *Miscellaneous and Supplementary*

Penalties for  
unlawful  
importation.

7.—(1) Any person who, at any time after the commencement of this Decree, knowingly imports any goods liable under this Decree to pre-shipment inspection otherwise than in compliance with the provisions of this Decree, shall be guilty of an offence under this Decree.

(2) Any person guilty of an offence under this Decree shall be liable upon conviction—

(a) in the case of an individual, to a fine of ₦5,000 or the value of the goods, whichever is higher, or to imprisonment for not more than 12 months or to both such fine and imprisonment ; and

(b) in the case of a body corporate, to a fine of ₦10,000 or twice the value of goods, whichever is higher.

(3) In addition to the penalties prescribed in subsection (1) above, the goods in respect of which the offence was committed shall be forfeited.

(4) Where an offence under this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in such capacity), he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished in the same manner as an individual under paragraph (a) of subsection (1) above.

(5) For the purposes of subsection (2) of this section, "value" means the amount stated on the face of the document or documents relating to the transaction in question and, where this is not expressed in Nigerian currency, its equivalent in Nigerian currency :

Provided that nothing in this subsection shall be construed as precluding proof of value by any other method or means permitted by any other enactment or law (including rules of law).

(6) Notwithstanding the other provisions of this section, any person charged with an offence under this section, including—

(a) the importer of goods in respect of which the offence has been committed ;

(b) any consignee or endorsee for valuable consideration of any bill of lading or any other appropriate document representing goods to have been shipped to Nigeria ; and

(e) any other person who in the normal course of his duties handles import goods,

may exonerate himself by showing that the goods in question were shipped without any default on his part or by the fraud or negligence of the overseas seller or of any other person.

8.—(1) Without prejudice to any other mode of proof, if in any proceedings taken before a court under this Decree any book or document in the official custody of the Central Bank or of any public officer is required to be used as evidence as to the transactions to which it relates, copies thereof or extracts therefrom certified by the Central Bank or the proper officer shall be admissible for that purpose, without production of the original.

Proof of certain documents.

(2) In any proceedings under this Decree, documents issued pursuant to or in connection to its provisions and copies of official documents purporting to be certified under the hand and seal or stamp of the principal officers of the inspecting authority in any foreign country or of any of the principal representatives of Nigeria abroad shall be sufficient evidence of the matters stated therein unless the contrary be proved.

9.—(1) The prosecution of offences under this Decree shall be at the instance of the Attorney-General of the Federation or by such other officer as the Attorney-General may authorise to do so :

Prosecution and trial of offences.

Provided that the question whether any authority has been given in pursuance of this subsection or what the authority was shall not be enquired into by any person except at the instance of the Attorney-General.

(2) Every proceeding under this Decree shall, subject to the applicable procedure, be commenced in the Federal Revenue Court and references in this Decree to "court" shall be construed accordingly.

10.—(1) Subject to subsection (2) below, the Central Bank may—

(a) without prejudice to the provisions of section 104 of the Constitution of the Federation (which relate to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), stay or compound any proceedings for an offence or for the forfeiture of any goods under the provisions of this Decree ; or

Power of the Central Bank, to compound proceedings, etc.

(b) subject to the approval of the Commissioner, restore any goods forfeited pursuant to the provisions of this Decree.

(2) The powers conferred on the Central Bank under this section shall be exercised so as not to defeat the objects of this Decree.

11.—The Commissioner may make such regulations as may be required from time to time for carrying into effect the objects of this Decree.

Regulations.

12.—(1) The Technical Committee shall, not later than 15 months after the coming into operation of this Decree and thereafter at intervals of 12 months each, prepare and submit a report on the operation of the scheme during the immediately preceding year to the Commissioner.

Annual reports.

(2) The Commissioner shall lay each report submitted to him under this section before the Federal Executive Council.



Interpreta-  
tion.

Cap. 30.

13.—(1) In this Decree, unless the context otherwise requires—

“the Central Bank” means the Central Bank of Nigeria established under the Central Bank of Nigeria Act ;

“the Commissioner” means the Federal Commissioner charged with responsibility for matters relating to exchange control ;

“inspecting authority” has the meaning assigned thereto by section 4 of this Decree ;

“overseas seller” or “seller” includes any supplier of goods abroad or exporter ;

“prescribed” means prescribed by the Commissioner by order published in the *Gazette* ;

“pre-shipment inspection” means inspection of goods in foreign countries prior to shipment thereof to Nigeria as provided in this Decree ;

“the Technical Committee” means the Technical Committee established by section 5 of this Decree.

(2) In this Decree, “shipment” means transfer of goods by sea, air, road, rail or any other means whatsoever and “shipped” shall be construed accordingly.

(3) Nothing in this Decree shall be construed as relieving any overseas seller of his contractual obligations to the importer of any goods liable to pre-shipment inspection or of any other goods.

Citation and  
commence-  
ment.

14. This Decree may be cited as the Pre-Shipment Inspection of Imports Decree 1978 and shall come into operation on 1st January 1979.

## SCHEDULE

### Section 1

#### PARTICULARS TO BE SUPPLIED TO THE CENTRAL BANK BY ALL IMPORTERS

1. Name and Address of Applicant : .....
2. Name and Address of Beneficiary : .....
3. Method of Payment :—
  - (a) Revocable/Irrevocable Letter of Credit : .....
  - (b) Expiry Date : .....
  - (c) Bills for Collection : .....
  - (d) Other : .....

4. The free on board (f.o.b.) value of the goods and the following :—
- (a) Freight charges :.....
  - (b) Ancillary charges such as commissions and interest charges :.....
  - (c) Name and amount of foreign currency :.....
  - (d) Total amount of all expenses involved :.....
5. Statement as to serial number of relative forms and amounts where part-payment has been made for the goods :.....
6. Description of and quantity of the goods :—
- (a) S.I.T.C. Code :.....
  - (b) Means of Shipment (Sea/air/road/rail/parcel post, etc.) :.....
  - (c) Ultimate Destination of goods :.....
  - (d) Import Licence No. (where applicable) :.....
  - (e) Country of Origin :.....
  - (f) Country of Supply :.....
  - (g) Date of Shipment :.....
  - (h) Validity :.....
  - (i) Registration dates of orders (where applicable) :.....
7. Declaration as to the accuracy of statements made under the foregoing paragraphs.

MADE at Lagos this 22nd day of December 1978.

LT.-GENERAL O. OBASANJO,  
*Head of the Federal Military Government,  
Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree  
but is intended to explain its purpose)*

The Decree introduces a scheme subjecting goods to be imported into Nigeria to pre-shipment inspection relative to the quantity and quality and comparative pricing of such goods.

Foreign exchange required for payment for such goods would only be released by the Central Bank upon issuance of a Clean Report of Findings therefor by the overseas inspectors and any such goods imported into Nigeria without a certificate in that behalf may be liable to forfeiture. In addition, stiff penalties are prescribed for contravention of the Decree.



**WEIGHTS AND MEASURES (AMENDMENT)  
DECREE 1978**



**Decree No. 37**

[1st January 1979]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Weights and Measures Decree 1974 is hereby amended as follows :—

Amendment  
of Weights  
and Measures  
Decree 1974.

(a) for section 16 thereof, there shall be substituted the following new section, that is—

1974 No. 32.

'General powers of inspection and sealing of premises.

16.—(1) Subject to the production of his credentials, if requested, an inspector may within the area for which he was appointed—

(a) at all reasonable times—

(i) inspect and test any weighing or measuring equipment which is used for trade or which he has any reasonable cause to believe may be so used, or which is in the possession of any person or upon any premises for such use

(ii) inspect any goods to which any of the provisions of this Decree or any subsidiary instrument made thereunder for the time being applies or which he has reasonable cause to believe to be such goods ;

(iii) enter any premises at which he has reasonable cause to believe there is any such equipment or goods as aforesaid, not being premises used only as a private dwelling-house ; and

(b) at any time seize and detain—

(i) any article which he has reasonable cause to believe is liable to forfeiture under this Decree ;

(ii) any document displayed with any goods as evidence of price or quantity of the goods and which the inspector believes may be required in the course of proceedings under or pursuant to this Decree.

(2) If an inspector finds any equipment, goods or articles as are mentioned in subsection (1) of this section on any premises and has reasonable grounds to believe that any offence under this Decree has been, is being or is likely to be committed on such premises he may seal the premises in question.

(3) Where an inspector enters or intends to seal any premises pursuant to the foregoing provisions of this section, he may take with him such other persons and equipment as may appear to him necessary ; and on leaving any such premises which at the time of entry were unoccupied or from which the occupier during such entry was temporarily absent, he shall leave them as effectively secured against trespassers as he found them.

(4) If any inspector or other person who enters any work-place by virtue of this section discloses to any person any information obtained by him in the work-place with regard to any manufacturing process or trade secret he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(5) In the exercise of his powers under this section, an inspector or other person concerned shall exercise them so that as far as is practicable he will not impede or obstruct work in progress.

(6) Where an inspector acts under subsection (2) of this section—

(a) he shall report his action to the Permanent Secretary forthwith ;

(b) any person aggrieved by the action may appeal to the Permanent Secretary who may confirm or cancel the action ; and

(c) the total period of the sealing of such premises shall not, without a court order in that respect, exceed 28 days.

(7) Notwithstanding subsection (6) of this section, upon receipt of a report under that section in respect of any premises which have been sealed up, the Permanent Secretary may direct that any goods found therein which in his opinion is of a perishable nature shall—

(a) where no offence under this Decree has been committed in respect of the goods in question, be released to the owner of the goods ;

(b) where an offence under this Decree is alleged to have been committed with respect to the goods in question, be disposed of by sale or in such other manner as he may determine : Provided that where goods are disposed of by sale, the proceeds of such sale shall be payable to the owner of such goods.

(8) Any person who knowingly and without reasonable excuse breaks a seal affixed pursuant to subsection (2) of this section shall be guilty of an offence and on conviction shall be liable to a fine of ₦2,000 or imprisonment for six months or to both such fine or imprisonment.

(9) Nothing in this section shall authorise an inspector to stop any vehicle on a highway.” ;

(b) in section 20 thereof, for the words “or measuring instrument” where they twice occur therein, there shall be substituted the words “measuring instrument or goods” ;

(c) in section 39 thereof, for the words “or measuring instrument” there shall be substituted the words “,measuring instrument or goods” ;

(d) in section 42 thereof, for the words “or measuring instrument” where they twice occur therein, there shall be substituted the words “,measuring instrument or goods” ;

(e) the existing subsections (3) and (4) of section 49 thereof shall be re-numbered as subsections (2) and (3) and for the existing subsections (1) and (2) there shall be substituted the following new subsection (1), that is—

“(1) Any person guilty of an offence under any provision of this Decree shall, unless otherwise prescribed, be liable on conviction—

(a) in the case of an individual, to a fine of ₦500 or imprisonment for one year or to both such fine and imprisonment ; and

(b) in the case of a body corporate, to a fine of ₦5,000. ” ;

(f) in section 51 thereof, for the definition of inspector in subsection (1) there shall be substituted the following new definition, that is—

““inspector” means any inspector of weights and measures of any grade appointed under this Decree and includes the superintendent of weights and measures, any deputy superintendent or any other grade of superintendent of weights and measures so appointed ;” ; and

(g) for section 52 thereof, there shall be substituted the following new section, that is—

“Exclu-  
sive  
use of  
metric  
units.

52.—(1) As from 1st January 1979 it shall be unlawful for any person in Nigeria to have in his possession for the purposes of trade or any other commercial transaction and, in particular, to have in his possession for sale, or to use or cause to be used for selling any commodity or to import any weights, measures, weighing instruments, measuring instruments or goods which are in Imperial units or in any other units other than in exclusively metric units.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence under this Decree.”

Citation and  
commence-  
ment.

2. This Decree may be cited as the Weights and Measures (Amendment) Decree 1978 and shall come into operation on 1st January 1979.

MADE at Lagos this 27th day of December 1978.

LT.-GENERAL O. OBASANJO,  
*Head of the Federal Military Government,  
Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria*

#### EXPLANATORY NOTE

*(This note does not form part of the above Decree  
but is intended to explain its effect)*

The Decree makes sundry amendments to the Weights and Measures Decree 1974 and, amongst other things, empowers inspectors of weights and measures to seal off premises used in contravention of that Decree. It also provides that as from 1st January 1979 only metric measures would be lawful in Nigeria for the purposes of trade or other commercial transactions.

## EXPLANATORY NOTE

*(This note does not form part of the above notice  
but is intended to explain its purpose)*

The Notice amends Legal Notice No. 57 of 1977 and reconstitutes the Legal Practitioners' Privileges Committee. It provides for the appointment of the eleven members mentioned in the Schedule thereto in addition to the Chief Justice of Nigeria, the Attorney-General of the Federation, the President of the Federal Court of Appeal and the President of the Federal Revenue Court whose appointments are already provided for in the Legal Practitioners' Decree 1975.