

Cabinet Resolution No. (11) of 2020
Regarding the Executive Regulation of the Federal Law No. (19) of 2016
On Anti-Commercial Fraud

The Cabinet:

- Having perused the Constitution;
- The Federal Law No. (1) of 1972 on the **Jurisdiction of Ministries and Competence of Ministries**, as amended; and
- The Federal Law No. (19) of 2016 regarding Anti-Commercial Fraud; and
- Pursuant to the submission of the Minister of Economy and consent of the Cabinet,

RESOLVED as follows:

Article (1)

Definitions

The definitions set forth in the Federal Law No. (19) of 2016 above shall apply to this Resolution; the following words and expressions shall have the meanings assigned against each, unless the context otherwise requires:

Specifications: the mandatory standard specifications approved by the Emirates Authority for Standardization & Metrology as well as the UAE standards.

Country of Origin: the country in which the commodity is manufactured.

Exporting Country: the country from where the commodity is imported directly.

Law: The Federal Law No. (19) of 2016 on Anti-Commercial Fraud.

Article (2)

Competent Authority Procedure for the Inspection of Fraudulent and Corrupt Goods

The Competent Authority, when necessary or if there are reasons to believe that there are goods in violation of the provisions of the Law, may:

1. Have three (3) samples of the seized goods in the quantities and amount required for the examination or analysis thereof; determine their compliance with the approved standard specifications; seal the same in a way that couldn't be unsealed; deliver one of the samples to the trader or its representative, the second one to the authority conducting examinations or analyses and the last one to be maintained by the Competent Authority.
2. Register the Procedure referred to in Clause (1) hereof by means of minutes, in the presence of the trader or its representative, indicating -if possible- the quantity and data of the goods from which the sample has been taken; determine the quantity of the sample taken and the trader details. However, the Competent Authority may reinspect when necessary.
3. Refer the sample to the Authority conducting examinations or analyses depending on the nature of the goods, provided that the examination,

analysis and approval of the result shall be completed within a period not exceeding five (5) working days from the date of taking samples for the damageable goods and ten (10) working days for the other ones, unless the nature of the goods requires a longer period for examination.

4. Inform the trader or its representative of the examination and analysis result within three (3) working days from the date on which the result is approved, by any means of communication.
5. The samples of the goods that have been examined and analyzed shall, as far as possible, be returned to the trader whenever it wants.
6. The goods from which the samples have been taken shall be seized during the examination and analysis period.
7. If it becomes evident, after the approval of the result, that the goods are fraudulent or corrupt, the trader must return them to the exporting country or the country of export within a period not exceeding forty five (45) days and it may be extended once, if necessary, based on the resolution of the Competent Authority.
8. The goods shall be released within one (1) working day as of the date of proof of having not violated the law.

Article (3)

Withdrawal of Fraudulent Goods from Markets

Without prejudice to the regulations in force in the UAE, if it is evident to the Sub-Committee that a trader has goods in the UAE or that goods displayed in markets constitute commercial fraud, it must notify the Ministry thereof within two (2) working days; accordingly, the Minister may decide to withdraw the goods from the markets and the Sub-Committees shall execute the same and dispose of the goods pursuant to the provisions of such decision.

Article (4)

Competent Authority Disposal of the Fraudulent or Corrupt Goods

If a trader refuses to return the fraudulent or corrupt commodities to the country of origin or the exporting country under Clause (7) of Article (2) hereof, the Competent Authority must prove its refusal and it may dispose of such goods under the supervision of the Sub-Committee, either by:

1. Destruction.
2. Returning them to the country of origin or the exporting under the following conditions:
 - a. If the goods exist in places intended for import, export or re-export.
 - b. If a trader fails to return the same within the period specified therefor.
 - c. If the goods are not totally corrupt throughout the duration of its return.

3. Allowing the use thereof for any other purpose for which it shall be valid, under the following conditions:
 - a. If a trader fails to return the goods during the period specified therefor.
 - b. If the goods are not totally corrupt or its return may not cause environmental or health damages.
 - c. If it is possible to benefit from the goods in any way, provided that the Sub-Committee shall decide the means of benefit.

At all events, the Competent Authority shall determine the charges and expenses incurred thereby due to the disposal of the goods set forth herein.

Article (5)

Conditions of Destroying Counterfeit Goods

The Competent Authority that has seized the counterfeit goods must prove the trader violation of importing such goods and destroy the same, regardless of the nature thereof, provided that the destruction thereof may not cause environmental or health damages, under the supervision of the Sub-Committee, according to the following conditions:

1. The existence of a Judicial order or a resolution on the destruction by the Sub-Committee.
2. The presence of the representative of the Sub-Committee.
3. The verification of the destruction in a way that makes it difficult to be used or consumed.

4. The preparation of a destruction report signed by the representative of the Sub-Committee, including the following:
 - a. Date, place and method of destruction.
 - b. List of the number and types of the destroyed goods.
 - c. Destruction cost.
 - d. Summary report on the destruction process.
5. If the Competent Authority makes a contract with a private company to carry out the destruction process, the violative goods shall be delivered to the company by virtue of a delivery receipt indicating the following:
 - a. Date and place of destruction.
 - b. List of the number and types of the destroyed goods.
 - c. Destruction cost.
 - d. Summary report on the destruction process.
6. At all events, the Competent Authority shall determine the charges and expenses incurred thereby to dispose the goods set forth herein.

Article (6)

Counterfeit Goods Recycling

If the destruction provided for in Article (5) hereof is not possible, the Chairman of the Competent Authority that has seized the counterfeit goods, may – under the supervision of the Sub-Committee- order to destroy such goods by means of recycling, whenever permitted and possible, at the expense of the trader.

Article (7)

Compelling the trader to pay the violative goods disposal expenses

The trader shall be notified of the expenses and charges, incurred by the Competent Authority against the disposal of the violative goods seized, to be paid thereby within fifteen (15) working days from the date of notice. However, if the trader neither pays the same within the specified period nor makes an excuse acceptable to the Competent Authority, it may take legal to claim such expenses and charges.

Article (8)

Warnings

If it is proved to the competent authority that there is a violation at one of the facilities, it has to refer the violation to the Sub-Committee in order to take the following actions:

- 1- A written warning to the establishment for the committed violation in order to comply with removal or withdrawal of the said violation within (3) three working days as of the date of notice.

- 2- A written warning to the establishment for its non-compliance with the previous warning, within (3) three working days as of the date of non-compliance.

Conciliation Actions before Sub-Committee

Article (9)

Whoever is proved to have violated the provisions of law, of this resolution or any of the law executive resolutions may submit a conciliation application before Sub-Committees in accordance with the provisions of this resolution.

Article (10)

Sub-Committee shall have to notify the establishment of the violation committed thereby by any one of the communication means while violator may apply before Sub-Committee for conciliation within (15) fifteen working days as of the date of being notified while in the event of failure to apply for conciliation during the aforesaid period , violation shall be referred to Public Prosecution.

Article (11)

- 1- Sub-Committee shall consider the conciliation application within (5) five working days as of the date of submission of the same.
- 2- In the event of acceptance of conciliation, the violator shall be notified of the acceptance and a time shall be determined in which a minute of conciliation of the violation attributed to him shall be executed so as to comprise the value the conciliated amount and the timeline within which payment is to be made.
- 3- If the conciliating violator does not comply with the payment of the conciliated amount promptly at the time specified in the minutes, conciliation

shall be deemed to be null and void and violation shall be referred to Public prosecution.

- 4- The conciliation award and the papers related thereto shall be maintained in a file with the Sub-Committee.
- 5- If the Sub-Committee rejects a request for conciliation, the violator may lodge a complaint to the Supreme Committee within fifteen (15) working days from the date of rejection and the Supreme Committee must decide on the complaint within fifteen (15) working days from the date of lodging it.
- 6- The Sub-Committee shall refer the violations to the Public Prosecution if the rejection is decided according to the applicable procedure within five (5) working days from the date of rejection.

Article (12)

Periodical Reports of the Sub-Committees

The Sub-Committees shall submit - at least every six months - periodical reports, on the tasks assigned thereto in accordance with the law and its implementing resolutions, to the Ministry on its approved forms.

Article (13)

Issuance of Executive Decisions

The Minister shall issue the necessary decisions to implement the provisions of this resolution.

Article (14)

Revocation of Contrary Provisions

Any provision that violates or contradicts the provisions hereof shall be revoked.

Article (15)

Publication & Validity

This Resolution shall be published in the Official Gazette and it shall come into force on the day following the date of its publication.

Mohammed Bin Rashid Al Maktoum

Prime Minister

Issued by us:

On: 07 Rajab 1441 AH

Cor. To: 02 March 2020 AD

ジェットロ仮訳

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