

# DECREE NO. 99/818/PM OF 9 NOVEMBER 1999 TO LAY DOWN TERMS AND CONDITIONS OF SETTING UP AND OPERATING ESTABLISHMENTS CLASSIFIED AS DANGEROUS, UNHEALTHY OR OBNOXIOUS

## THE PRIME MINISTER, HEAD OF GOVERNMENT,

- Mindful of the Constitution;
- Mindful of Law No. 96/12 of 5 August 1996 relating to Environmental Management;
- Mindful of Law No. 98/015 of 14 July 1998 on establishments classified as dangerous, unhealthy or obnoxious;
- Mindful of Decree No. 92/089 of 4 May 1992 to specify the duties of the Prime Minister, as amended and supplemented by Decree No 95/145 of 4 August 1995;
- Mindful of Decree 97/205 of 7 December 1997 to organize the Government, as amended and supplemented by Decree No 98/067 of 28 April 1998;
- Mindful of Decree No. 97/206 of 7 December 1997 to appoint a Prime Minister,

## HEREBY DECREES AS FOLLOWS:

### Article 1:

This Decree lays down the procedures for setting up and operating establishments classified as dangerous, unhealthy or obnoxious.

## Chapter I

### PROVISIONS APPLICABLE TO FIRST CLASS ESTABLISHMENTS

#### Article 2 :

(1) Any person wishing to set up and operate an establishment subject to authorization shall address an application to the Minister in charge of classified establishments.

This application, the original of which shall be stamped at the current rate, shall be filed in five copies and shall mention:

- surname, first names, domicile, filiation and nationality if it is a natural person;
- the name or corporate name, legal status, address of the registered office, composition of capital, if any, as well as the position of the signatory of the application for corporate bodies;

- the location of the establishment;
- the nature and volume of the activities that the promoter proposes to carry out, as well as the items of the nomenclature in which the establishment is to be classified;
- the manufacturing processes that will be implemented, the materials used and the products manufactured by specifying their chemical composition and their biodegradable character. In this case, the promoter may send in a single copy and in a separate envelop confidential information that may result in the disclosure of manufacturing secrets.

(2) Where the setting up of an establishment requires prior obtaining of a building permit, the application for authorization shall be accompanied by the said permit or, where appropriate, proof of filing of the permit application, with the understanding that a building permit is not worth authorization to set up or to operate.

#### Article 3

Each copy of the application for authorization shall be accompanied by the following documents:

- a map at a scale of 1/50,000, approved by a sworn surveyor of the cadastre, on which shall be indicated the location of the proposed facility;
- a 1/10 000 scale plan, approved by a sworn surveyor of the cadastre, on which shall be indicated the surroundings of the establishment on a radius of 100m. On this plan shall be indicated all buildings with their uses, railroads, public roads, water points and waterways;
- an overall plan at 1/200 scale indicating the projected provisions and distributions of the establishment and its various premises;
- an environmental impact assessment carried out in accordance with the laws and regulations in force;
- a hazard study carried out in accordance with the laws and regulations in force;
- an emergency plan drawn up in accordance with the laws and regulations in force;
- plans, sections and technical documentation of equipment;
- a receipt attesting the payment to the public treasury of the right to issue the authorization to operate provided for in Article 27 below.

#### Article 4

(1) Applications for the authorisation to operate first-class establishments shall be subject to public inquiry, opened by the Minister in charge of dangerous, unhealthy or obnoxious establishments who shall appoint investigating commissioners for that purpose.

(2) The opening of this inquiry shall be published through:

- the senior divisional officer of the division where the establishment is located;
- the divisional officer of the sub-division concerned;
- the mayor of the council where the establishment is located.

(3) The aforementioned authorities shall post the notice to the public provided for in Article 5 below. The posting radius determined for each classified establishment shall be set at five kilometres maximum in the sub-division or council where the establishment is located.

(4) An inquiry register shall be opened at the sub-divisional office or the council office of the location of the establishment in which the public may make comments, after acquainting themselves with the issue.

#### Article 5

(1) The public notice shall be posted at the expense of the applicant. The carrying out of this posting shall be certified by the authorities mentioned in Article 4 above.

(2) The notice shall specify the type of establishment, its class, the types of hazards and nuisances the

establishment may present, the place on which it is to be carried out, the duration of the inquiry, the names and addresses of the investigating commissioners.

- (3) The inquiry shall also be announced by a notice inserted in the Official Gazette in the same manner as above, and by any other means, if the type and magnitude of the dangers and inconveniences presented by the proposed establishment are justified.

#### Article 6

- (1) Upon the initiation of an investigation, the Minister in charge of classified establishments shall communicate for advice a copy of the application for authorization to the administrations in charge of environment, public health and, where appropriate, agriculture, animal husbandry, industrial development, and trade. The above-mentioned administrations must take a decision within twenty days as from the date of referral. After this deadline, their observations shall not be taken into consideration.
- (2) The Minister in charge of classified establishments shall issue an order fixing the date to present and explain the project to the population by the establishment's promoter, in the presence of administrative authorities referred to in Article 4 above. The report of this ceremony shall be drawn up and signed by the investigating commissioners.

#### Article 7

The duration of the public inquiry of establishments subject to authorization shall be thirty days. After this period, the administrative authorities referred to in Article 4 above shall forward to the Minister in charge of classified establishments a certificate of posting and no-opposition in case of no objection by the populations, or failing that, the oppositions of the interested public concerning the setting up of the establishment.

#### Article 8

- (1) The inquiry register shall be closed and signed by the investigating commissioners. During the close of the inquiry, the investigating commissioners shall summon the applicant within one week and communicate to him on-the-spot the written or oral observations recorded in their report inviting him to produce a response within 15 (fifteen) days.
- (2) The Investigating Commissioners shall forward the inquiry file to the Minister in charge of establishments within eight days of the filing of the applicant's response or the expiry of the time limit for giving that response. The Minister shall decide within a maximum of one month from the date of receipt of the file in his services.
- (3) However, the Minister in charge of classified establishments may, where it is impossible to decide within the period referred to in paragraph (2) above, fix by order a new deadline which may not exceed 2 (two) months.

#### Article 9

- (1) If the proposed establishment has more than one classified first class facility, There shall be a single inquiry, and a single order shall decide on all the facilities.
- (2) The authorization shall be granted pending taking into account the rights of third parties.

#### Article 10

The order on authorization to operate an establishment classified as dangerous, unhealthy or obnoxious shall stipulate the conditions for setting up and operating, as well as the technical requirements for preventing dangers to health, safety, public health, agriculture, nature and the environment in general, and inconveniences for the comfort of the neighbourhood.

#### Article 11

In the context of self-monitoring of discharges into the environment, the authorization order shall stipulate the means of analysis and measures necessary for control of the establishment and monitoring its effects on the environment.

#### Article 12

- (1) In order to inform the interested public:
  - a copy of the decree of authorization shall be deposited in senior divisional office, sub-divisional office and council office of the establishment's location;
  - an excerpt from the order listing the requirements to which the establishment is subject shall be posted at the sub-divisional office and the council office for a maximum of one month, the reports of the aforementioned authorities shall prevail. The same excerpt shall be posted in front of the offices of the beneficiary of the authorization and inserted in the Official Gazette.
- (2) At the request of the operator, certain provisions likely to lead to the disclosure of manufacturing secrets may be excluded from the publication provided for in paragraph (1) above.

#### Article 13

The Minister in charge of establishments classified as dangerous, unhealthy or obnoxious shall lay down by order the procedures for carrying out emergency public inquiries with a view to granting authorizations as appropriate for a limited period to establishments that are required to operate for a period not exceeding one year, either to establishments experimenting with new technologies or located at sites within the vicinity of which town planning developments are planned.

## Chapter II

### PROVISIONS APPLICABLE TO SECOND CLASS ESTABLISHMENTS

#### Article 14 :

The declaration relating to a second class establishment must be sent, before operating the establishment, to the Minister in charge of establishments classified as dangerous, unhealthy or obnoxious in five copies of which the original shall be stamped at the current rate.

It shall mention:

- surname, first names, domicile, filiation and nationality if it is a natural person;
- name or corporate name, legal status, address of the registered office, composition of capital, if any, as well as the quality of the signatory of the declaration if it is a corporate body;
- location of the establishment;
- nature and volume of the activities that the promoter proposes to carry out and the nomenclature(s) in which the establishment is to be classified;
- a receipt attesting the payment into the public treasury of the issuance fee for the declaration receipt provided for in Article 27 below.

The promoter shall also produce:

- a site plan of the establishment at the scale of 1/50,000, approved by a sworn surveyor of the cadastre;

- an overall plan at the scale of 1/200 showing the material provisions of the establishment and indicating up to 50m at least of this land use, inhabited areas, water points, communication routes;
- the method of recovery, enhancement and treatment of solid waste and liquid or gaseous effluents;
- the building permit, if applicable, with the understanding that the latter is not worth authorization to set up or to operate;
- an emergency plan drawn up in accordance with the laws and regulations in force.

#### Article 15

Before deciding on the operator's declaration, the Minister in charge of establishments classified as dangerous, unhealthy or obnoxious shall communicate for opinion a copy of the latter to the council where the establishment shall be located, to the administrations in charge of environment, health and, where appropriate, agriculture, livestock, and industrial and commercial development. The aforementioned administrations shall take a decision within ten days from the date of their referral. After this deadline, their observations shall not be taken into consideration.

#### Article 16

- (1) The Minister in charge of establishments classified as dangerous, unhealthy or obnoxious shall by decision, issue a receipt of the declaration within a maximum period of fifty days from the date the declaration was filed in his services and shall provide the applicant with a copy of the general requirements concerning the classified activity. After this deadline, the receipt of the declaration shall be deemed acquired.
- (2) A copy of the decision referred to in paragraph (1) above shall be sent to the administrative authority and the mayor of the council where the establishment is located, for information of the interested public.
- (3) At the applicant's request, certain provisions of the decision that may lead to the disclosure of manufacturing secrets may be excluded from the publication provided for in paragraph (2) above.

#### Article 17

- (1) To prevent either hazards to health, safety, public hygiene, agriculture, nature and the environment in general, or inconveniences for the comfort of the neighbourhood, additional requirements may, as necessary, be issued against the inconveniences inherent in the operation of a second-class establishment.
- (2) The operator of a second-class establishment may, on the basis of a reasoned request submitted to the Minister in charge of establishments classified as dangerous, unhealthy or obnoxious, obtain the removal or mitigation of certain requirements to which he is subjected.

## Chapter III

### COMMON PROVISIONS FOR CLASSIFIED ESTABLISHMENTS

#### Article 18

- (1) The emergency plan referred to in Articles 3 and 14 above shall be approved by a commission made up of the following members:
  - a representative of each of the ministers in charge, as the case may be, of:

- classified establishments, president;
- territorial administration;
- defence ;
- environment ;
- industrial and commercial development,
- a representative of the Delegate General for National Security.

- (2) The approval commission referred to in paragraph (1) above shall annually ensure the condition and reliability of the equipment provided for in the implementation of the emergency plan.
- (3) The composition of the accreditation committee shall be determined by decision of the Minister in charge of classified establishments.

#### Article 19

- (1) The setting up and operation of any classified establishment shall be subject to obtaining a priori, as the case may be, the order authorizing operation, or the declaration receipt.
- (2) Where an authorized or registered establishment changes its operator or name, the new operator or his representative shall make the declaration to the Minister in charge of classified establishments within one month from the date of taking over the establishment.

#### Article 20

Any transfer of an establishment to another location, any modification of it resulting in a significant change in the demand or the original declaration shall require, before its completion, a request for supplementary authorization or a new declaration, subject to the same formalities as the original application or declaration.

#### Article 21

- (1) Where a classified establishment is not operational within two years from the notification of the order of authorization to operate or the issuance of the declaration receipt, or not operated for two consecutive years, for the operator to resume operations, he shall request a new authorization or make a new declaration.
- (2) Where an establishment ceases the activity for which it was authorized or declared, its operator must inform the Minister in charge of classified establishments within one month following the cessation. He shall be issued a receipt free of charge for this declaration. The operator must restore the site so as to eliminate any danger or inconvenience for comfort of the neighbourhood.

#### Article 22

The operator of an establishment subject to authorization or declaration shall be required to immediately notify, and no later than forty-eight hours, the Minister in charge of classified establishments, accidents or incidents resulting from the operation of this establishment.

#### Article 23

The Minister in charge of classified establishments may decide that the restoration of an establishment following a temporary halt as a result of a fire, explosion or other accident due to its malfunction, shall be subject to a new authorization or a new declaration, as the case may be.

#### Article 24

Where an establishment has been the subject of a removal, closure or suspension measure, the operator shall be required to take appropriate measures to supervise the establishment, including removing dangerous or toxic materials, which are perishable as well as animals found in the establishment.

#### Article 25

Inspection and control of establishments classified as dangerous, unhealthy or obnoxious shall be carried out, under the authority of the Minister in charge of those establishments, by inspectors designated for that purpose or by authorized natural persons or legal entities.

## Chapter IV

### FINANCIAL PROVISIONS

#### Article 26 :

In order to calculate the costs of inspection and control of classified establishments and pollution tax, under this Decree the following shall mean:

- built-up area, the area occupied by the facilities included in the nomenclature of establishments classified as dangerous, unhealthy or obnoxious;
- unbuilt area, the area occupied by unclassified facilities of the establishments concerned, including administrative buildings and dwellings;
- biodegradable pollution, any industrial discharge that can be easily destroyed by bacteria or by other biological agents;
- non-biodegradable pollution, any industrial discharge containing substances characterized by their persistence, toxicity or harmfulness and tendency to bio-accumulation.

#### Article 27

(1) Any establishment classified as dangerous, unhealthy or obnoxious shall be subject to pay a fee for authorization to operate or the declaration receipt the amounts of which shall be fixed as follows:

- 500,000 (five hundred thousand) CFA Francs for an establishment subject to authorization;
- 200,000 (two hundred thousand) CFA Francs for an establishment subject to declaration.

(2) Classified establishments referred to in Articles 20 and 23 above shall also be subject to payment of fees set out in this Article.

#### Article 28:

(1) Any establishment classified as dangerous, unhealthy or obnoxious that pollutes the environment, shall be subject to pay annual pollution tax whose multiplier coefficient, related to the typology and quantity of solid, liquid or gaseous discharges from the establishment is stipulate in the Annex of this Decree.

## Chapter V

### MISCELLANEOUS AND FINAL PROVISIONS

#### Article 29 :

The nomenclature of establishments classified as dangerous, unhealthy or obnoxious shall be laid down by order of the Minister in charge of classified establishments.

#### Article 30

Costs of public inquiry for dangerous, unhealthy or inconvenient establishments and allowances of investigating commissioners shall be borne by the operator.

#### Article 31

All previous contrary provisions are hereby repealed, especially those of Decree No. 76/372 of 2 September 1976 to regulate dangerous, unhealthy or obnoxious establishments.

#### Article 32:

The Minister of Mines, Water Resources and Power shall be in charge of the implementation of this Decree which will be registered and published according to procedure of urgency and inserted in the Official Gazette in English and in French.

Yaounde, 9 November 1999

**Peter Mafany Musonge**  
Prime Minister, Head of Government