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ARTICLE

Administrative Oversight of Product Compliance as a Mechanism for Consumer Protection in Algerian Legislation

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Keywords

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Abstract

The issue of administrative oversight of product compliance constitutes one of the principal mechanisms adopted by the Algerian legislature to ensure consumer protection. To elucidate this oversight, this paper first examines the administrative supervision of domestic products within the market through a review of inspection procedures, such as document examination, hearing from stakeholders, entry into commercial premises, direct inspection and sampling, which culminates in the drafting of violation reports. It also addresses the administrative authority's powers to implement appropriate precautionary measures, including storage, seizure, temporary or permanent withdrawal, destruction, and temporary suspension of activity. The second part of the study focuses on the administrative oversight of imported products at border points, highlighting the role of specialised regulatory bodies and the procedures followed, as well as the precautionary measures applicable, such as conditional authorisation of entry or outright refusal of entry in cases of noncompliance with legal and regulatory standards.

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Introduction:

Administrative oversight of product compliance has been accorded particular importance under the provisions of Law No. 09-03 on consumer protection and fraud prevention (as amended and supplemented). This is due to the pivotal role that product compliance plays as a mechanism for consumer protection, especially as the concept of compliance has expanded to encompass a product's conformity with technical regulations and requirements related to health, safety, security, and the environment.¹

This is evident from the provisions of Law No. 09-03 on Consumer Protection and Fraud Prevention (as amended and supplemented), which dedicates Chapter II of Title III to procedures for monitoring product compliance. Under Article 29 of this law, these monitoring procedures are entrusted to the officers referred to in Article 25 of the same statute.

¹ Ayad, Mohamed Imad Eddine, "The Consumer Contract in Algerian Legislation" (unpublished PhD thesis, Faculty of Law and Political Science, University of Blida 2, 2016), 397.

Notably, the officers referred to in Article 25, who are authorised to exercise administrative oversight in this context, are of three categories: judicial police officers,² officers authorised pursuant to specific statutory provisions,³ and fraud prevention officers⁴ attached to the ministry responsible for consumer protection.

Moreover, the legislature did not limit itself to merely authorising these officers to perform monitoring duties; instead, it granted them powers to facilitate the exercise of such oversight. Article 29 of Law No. 09-03 demonstrates that the legislature has vested these officers with extensive powers, granting them discretion regarding the means employed and the timing of measures taken at all stages of the process of offering products for consumption to ensure effective monitoring of product compliance.

On this basis, the central question arises: How can administrative oversight of product compliance, as a mechanism for enforcing the obligation of compliance, ensure the effective implementation of this obligation in a manner that guarantees consumer protection?

To address this question, the study has been structured according to a bipartite plan as follows:

- **First section:** Administrative oversight of domestic product compliance at the market level.
- **Second section:** Administrative oversight of imported product compliance at border points.

Section One: Administrative Oversight of Domestic Product Compliance at the Market Level

In the context of exercising administrative control to ensure the enforcement of the obligation of product compliance, regulatory officers, each according to their area of expertise, carry out procedures to identify products available on the market. These procedures enable officers to take measures that fall within the scope of administrative powers in supervisory operations.

This necessitates an examination of two key issues. The first concerns the need to understand the procedures employed in the administrative oversight of product compliance at the market level (First), whereas the second relates to understanding the administrative authority's powers in adopting precautionary measures concerning domestic products (Second).

First: Administrative Oversight Procedures Related to Product Compliance at the Market Level

An analysis of the provisions of Law No. 09-03 on Consumer Protection and Fraud Prevention reveals that the Algerian legislature has granted the authority to exercise administrative oversight of domestic product compliance at the market level to specific bodies, namely, fraud prevention officers. These officers are vested with powers to carry out direct supervisory duties at the market level. Such oversight is conducted through a series of procedures about product compliance at the market level, which will be outlined in detail in the following sections.

1. Examination of Documents and Hearings of Relevant Stakeholders

² See Article 15, which defines who holds the status of judicial police officer, in Ordinance No. 66-155 of 8 June 1966, Code of Criminal Procedure, as amended and supplemented by Ordinance No. 21-11 of 25 August 2021, Official Gazette No. 65 of 26 August 2021.

³ These include customs officers and veterinary officers. See Zahia Houria Si Youssef, *Study of Law No. 09-03 of 25 February 2009 on Algerian Consumer Protection* (Algiers: Houma Printing, Publishing, and Distribution, 2017), 73.

⁴ The Fraud Prevention Division includes the following ranks: Fraud Prevention Controllers (to be phased out), Fraud Prevention Investigators, and Fraud Prevention Inspectors. See Article 4 of Executive Decree No. 09-415 of 16 December 2009 Establishing the Special Statute Governing Employees in the Special Ranks of the Administration in Charge of Commerce, Official Gazette No. 75 of 20 December 2009.

Oversight of product compliance with specific distinguishing requirements is carried out through the examination of documents or by hearing relevant stakeholders.⁵ The officers perform this procedure referred to in Article 25 of Law No. 09-03 on Consumer Protection and Fraud Prevention (as amended and supplemented), regardless of their designation, whether they are judicial police officers, officers authorised under special statutory provisions, or fraud prevention officers under the ministry responsible for consumer protection. In the course of their supervisory duties, and without the restriction of professional secrecy being invoked against them, these officers are empowered to view and examine all papers or technical, administrative, commercial, financial, or accounting documents, as well as all magnetic or digital media. In addition, they may request access to any of the aforementioned documents, regardless of whose possession they are in, and may proceed to seize them.⁶

Notably, the procurement of such documents and records by the aforementioned officers may also take place even in the absence of relevant stakeholders or their legal representatives. In such cases, access may be obtained through any employee who holds these documents by virtue of their position, and neither the absence of the stakeholder nor their legal representative may be invoked to prevent the officers from reviewing the documents.⁷

For hearing the relevant stakeholders and their employees, this procedure serves to obtain all the information that facilitates the proper execution of the supervisory task, particularly in cases where documents are refused, unavailable on the premises, or withheld under the pretext of the absence of the shop owner or the company's manager.⁸

Entry into Commercial Premises

In addition to the aforementioned procedure, the legislature authorised the officers referred to above, within the framework of exercising oversight of product compliance, to enter commercial establishments, offices, annexes, and loading and storage facilities, with the freedom to do so either by day or by night. Such access may generally be exercised in any location.

However, this broad authorisation does not extend to premises used for residential purposes, which may only be entered in accordance with the provisions of the Code of Criminal Procedure.⁹ Article 29 of Law No. 09-03 grants supervisory officers extensive and unrestricted powers with respect to product monitoring regarding the means employed (by any means), the timing (at any time), and the scope (at all stages of the process of offering products for consumption). Conversely, Article 34 places limits on the authority of supervisory officers when it concerns premises used for residential purposes, stipulating that entry shall be carried out in accordance with the Code of Criminal Procedure.¹⁰ The latter provides that the inspection or search of dwellings may not commence before five:00 in the morning or after eight:00 in the evening, except in specific circumstances or under legally defined exceptional conditions.¹¹

The legislature has exempted premises of a residential nature from unrestricted access, adhering to the provisions of the Code of Criminal Procedure. However, it has not required supervisory officers to obtain and present a written

⁵ See Articles 29 and 30 of Law No. 09-03 of 25 February 2009 on Consumer Protection and Fraud Prevention, *Official Gazette* No. 15 (8 March 2009), as amended and supplemented by Law No. 18-09 of 10 June 2018, *Official Gazette* No. 35 (13 June 2018).

⁶ See Articles 33 and 30 of Law No. 09-03.

⁷ André Marie, "Les enquêtes de la DGCCRF en matière de pratiques anticoncurrentielles," *Revue LAMY de la concurrence*, no. 14 (January-March 2008): 115.

⁸ *Guide de l'Inspecteur de la Répression des Fraudes*, Direction Générale du Contrôle Économique et de la Répression des Fraudes, Ministère du Commerce, 14.

⁹ See Article 34 of Law No. 09-03.

¹⁰ Mohamed Imad Eddine Ayad, *The Consumer Contract in Algerian Legislation* (previously cited), 398.

¹¹ See Article 47 of Ordinance No. 66-155, Code of Criminal Procedure, as amended and supplemented.

authorisation.¹² Issued by a specific authority prior to entering and commencing their oversight activities. The rationale behind this, from our perspective, lies in recognising the unique nature of the duties performed by supervisory officers and in facilitating their work procedures. For this reason, the legislature did not require written authorisation so as not to hinder their performance of duties and to ensure that their work is carried out with ease.

3. Direct On-Site Inspections by Visual Observation or Measuring Instruments

In addition to the preceding measures, the legislature has authorised the aforementioned officers to conduct direct inspections, either through visual observation or with the aid of measuring instruments. Direct inspections refer to procedures aimed at detecting violations that can be established through visual examination of products or observation of services offered for consumption or by using simple measuring devices or instruments, which allow for the immediate detection of infringements without the need for in-depth analysis.¹³

However, in their efforts to carry out direct inspections through visual observation, the officers referred to in Article 25 of Law No. 09–03 aim to uncover violations that may take multiple forms. Examples include the absence of product labelling, the failure of products to bear the conformity mark “MJ,” denoting Algerian conformity, and other infractions that can be detected visually without requiring specialised expertise or advanced qualifications. Nonetheless, this does not mean that direct visual inspection alone can always ensure the full effectiveness of this procedure. In many cases, officers are unable to detect certain violations related to product compliance solely by visual observation, which necessitates the adoption of another measure: the collection of samples for analysis, testing, or examination. This will be addressed in the following section.

4. Collection of Samples for Analysis, Testing, or Examination

The collection of samples constitutes a purely administrative procedure,¹⁴ as stipulated among the oversight measures on product compliance within the provisions of Law No. 09–03 on Consumer Protection and Fraud Prevention.

This procedure applies to products that may be subject to suspicion, those for which documentary and visual inspections have proven insufficient, or in cases where doubts arise regarding the accuracy of the information provided to supervisory authorities or officers.¹⁵ Consequently, supervisory officers resort to the collection of samples for analysis, testing, or examination to ensure thorough oversight of product compliance.

How do supervisory officers collect samples?

The process of sample collection for analysis is carried out by the supervisory officer, who selects three homogeneous and identical samples of the product under inspection, which are then sealed. The first sample is sent to an authorised laboratory.¹⁶ Specifically, laboratories under the ministry are responsible for consumer protection and fraud prevention, although other laboratories may also be accredited to conduct these analyses.¹⁷

¹² As in Article 44 of the Code of Criminal Procedure, which requires written authorisation issued by the Public Prosecutor or the Investigating Judge to be presented prior to entering a residence and commencing a search.

¹³ Salwa Gaddach, *The Obligation to Guarantee Products in Consumer Contracts* (PhD diss., Faculty of Law and Political Science, Department of Law, University of Batna 1, 2018–2019), 238.

¹⁴ Mohamed Boudali, *Consumer Protection in Comparative Law: A Comparative Study of French Law* (Cairo: Dar Al-Kitab Al-Hadith, 2006), 292.

¹⁵ *Guide de Contrôle des Appareils Électroménagers*, Direction Générale du Contrôle Économique et de la Répression des Fraudes, Ministère du Commerce, 16.

¹⁶ See Article 40 of Law No. 09-03.

¹⁷ See Articles 35 and 36 of the same law.

The second and third samples serve as control samples: one is retained by the supervisory authority that carried out the collection, while the relevant stakeholder remains the third. Both samples may be used if an expert examination is needed, provided that they are stored under appropriate conditions to prevent any alteration or damage.¹⁸

However, in the course of their duties, supervisory officers may encounter products whose nature does not permit the collection of the three aforementioned samples. In such cases where the product under inspection is perishable or its nature, quantity, weight, size, or value precludes the standard sampling procedure, a single sample is collected, sealed, and sent immediately to an authorised laboratory for analysis.¹⁹

Nevertheless, granting supervisory officers the discretion to collect only one sample may, in our view, constitute an infringement and violation of the stakeholders' rights in the context of exercising oversight and ensuring consumer protection. In such circumstances, the stakeholder is deprived of the right to retain a sample for possible expert review, and even the second sample, which would serve as a control, is unavailable. Thus, while product compliance monitoring procedures are designed to safeguard consumers, this objective should not justify disregarding the rights of defence of those subject to inspection.

5. Drafting Violation Reports Following Oversight Procedures

A report may be defined as a written document prepared by a duly authorised official, recording an incident in which the drafter has personally verified and investigated within the scope of their jurisdiction.²⁰

Hence, the legislature, through Law No. 09-03 on Consumer Protection and Fraud Prevention, stipulates that supervisory officers, in the course of performing their oversight duties, must draft reports documenting all necessary information. These include the dates and locations of inspections conducted, a detailed account of the facts observed, the recorded violations, and the penalties prescribed for them. Furthermore, such reports must specify the identities and official capacities of the officers conducting the inspection, along with the name, surname, activity, and address of the stakeholder subject to oversight.²¹

This reporting procedure, as set out within the measures for product compliance monitoring, raises the question of the legal probative force of reports prepared by fraud prevention officers. The answer to this query is explicitly provided in Paragraph 3 of Article 31 of Law No. 09-03, which states: "The reports referred to in the preceding paragraphs shall carry legal probative force until proven otherwise."

This legal probative force accorded to reports prepared by fraud prevention officers constitutes a privilege granted by the legislature specifically to this category of reports to establish offences affecting consumer protection. This stands in contrast to the general procedural rules outlined in the Code of Criminal Procedure, under which reports drafted in felony and misdemeanour cases are generally regarded as mere pieces of evidence that the judge may choose to rely upon or disregard. Consequently, a stakeholder's denial of the facts attributed to them in such reports, even when accompanied by contrary evidence, is insufficient to invalidate their contents.²²

Second: Administrative Powers to Take Precautionary Measures Regarding Domestic Products

Within the provisions of the Law on Consumer Protection and Fraud Prevention, the Algerian legislature not only vested supervisory officers with powers to carry out procedures in the course of their oversight duties but also grant-

¹⁸ See paragraphs 2, 3, and 4 of Article 40 of the same law.

¹⁹ See Article 41 of the same law.

²⁰ Ahmed Khadidji, *Rules of Commercial Practices in Algerian Law* (PhD diss., Faculty of Law and Political Science, University of Hadj Lakhdar Batna, defended 12 May 2016), 277.

²¹ See Article 31 of Law No. 09-03.

²² Salwa Gaddach, *The Obligation to Guarantee Products in Consumer Contracts* (previously cited), 243.

ed broader powers to the administration, through these officers, to adopt precautionary measures concerning domestic products at the market level. This section seeks to set out the principal precautionary measures available to supervisory officers to ensure compliance monitoring of products offered for consumption.

1. Product Deposits

The deposit of products constitutes a new measure not addressed by the Algerian legislature under the provisions of repealed Law No. 89--02 on consumer protection. The measure was introduced and regulated under Chapter I of Title IV of Law No. 09--03 on Consumer Protection and Fraud Prevention, which addresses precautionary measures and the principle of precaution.

A deposit consists of suspending a product offered for consumption that has been verified and found, upon direct inspection, to be noncompliant. A decision of the authority responsible for consumer protection and fraud prevention is carried out. The deposit measure is intended to ensure the compliance of products suspected of nonconformity by the stakeholder concerned. If, following inspection, the product is found to be compliant, the competent authority issues a decision lifting the deposit. In cases of noncompliance, the stakeholder may be formally notified to take appropriate corrective measures to eliminate the cause of nonconformity or to address violations of the rules and standards governing the offering of products for consumption.²³

2. Product Seizures

As part of the precautionary measures undertaken by supervisory officers to ensure consumer protection, officers may proceed with the seizure of a product.²⁴ Seizures are carried out when product compliance cannot be verified or when the relevant stakeholder refuses to undergo the compliance verification process for a product suspected of nonconformity.

Seized products may then be redirected, either by being sent to a public-interest institution for direct and legitimate use, repurposed and redirected for lawful use after modification, or destroyed. These actions are accompanied by judicial proceedings as prescribed by the provisions of the Law on Consumer Protection and Fraud Prevention.²⁵

Certain noncompliant but consumable goods have been redirected to public interest centers, such as the Red Crescent, solidarity centers, charitable restaurants, the Ihsan Association, the Orphan Care Association, hospitals, the National Center for Women in Difficult Situations, centers for assisted children, psycho-pedagogical centers for children with disabilities, homes for elderly individuals, and rehabilitation institutions.

Noncompliant meat has been directed to stray dog shelters, animal quarantine facilities, dog training and rehabilitation centers, and zoological parks. In this context, immediate notification of the Public Prosecutor is required in all cases of destruction, redirection, or repurposing of products.²⁶

3. Temporary Withdrawal of Products

In carrying out their duties related to product compliance and in applying precautionary measures to ensure consumer protection, supervisory officers may impose the temporary withdrawal of a product.²⁷

²³ See Articles 55 and 56 of Law No. 09-03.

²⁴ See Article 53 of Law No. 09-03, as amended by Article 2 of Law No. 18-09.

²⁵ See Articles 57 and 58 of Law No. 09-03.

²⁶ *Guide de l'Inspecteur de la Répression des Fraudes*, Direction Générale du Contrôle Économique et de la Répression des Fraudes, Ministère du Commerce, 20.

Temporary withdrawal consists of prohibiting the placement of any product for consumption, wherever it may be found, when there is suspicion of its noncompliance. This measure remains in effect pending the outcome of in-depth investigations, particularly laboratory analyses.²⁸ It involves the collection of samples for testing, experimentation, or verification or for obtaining documents or information not available to the holder of the product subject to inspection.²⁹

Supervisory officers draw official reports, seal suspected products, and place them under the custody of the stakeholders concerned.³⁰

The legislature, in turn, has stipulated that such investigations must be conducted within seven working days. If no noncompliance is proven, the temporary withdrawal is to be lifted immediately. The seven days may be extended where the technical conditions for oversight, testing, or experimentation require additional time. Should noncompliance be confirmed, the product is declared seized, and the public prosecutor must be notified without delay.³¹

By virtue of Law No. 18-09, the legislature introduced Article 61 bis, which had not been included in Law No. 09-03, providing that fraud prevention officers may also impose temporary withdrawal in cases where products are suspected of being counterfeit.

Thus, fraud prevention officers are now authorised to implement temporary withdrawal of products in two situations: first, where there is suspicion of noncompliance, and second, where products are suspected of being counterfeit.

Furthermore, Executive Decree No. 12-203, concerning the rules applicable in the field of product safety, affirms this provision. Article 15 of the decree stipulates that, at all stages of placing products for consumption, the authority responsible for consumer protection and fraud prevention should take all necessary measures to withdraw goods from the market or suspend services if they do not meet safety requirements. This is to be carried out particularly through issuing clearly worded warnings to the relevant stakeholders, indicating the risks posed by the products placed on the market and obliging the stakeholders to bring the goods into conformity.

4. Permanent Withdrawal of Products

Permanent withdrawal of products is carried out by supervisory officers without prior authorisation from the competent judicial authority in the following cases:

- Products proven to be counterfeit, fraudulent, toxic, or past their expiration date.
- Products found and confirmed to be unfit for consumption.
- Possession by a stakeholder of products without legitimate justification may be used for counterfeiting.
- Counterfeit products.
- Objects or devices used to commit acts of counterfeiting.

²⁷ See paragraph 2 of Article 53 of Law No. 09-03, as amended by Article 2 of Law No. 18-09 on Consumer Protection and Fraud Prevention.

²⁸ See Article 59 of Law No. 09-03.

²⁹ *Guide de l'Inspecteur de la Répression des Fraudes*, previously cited, 17.

³⁰ See Article 61 of Law No. 09-03.

³¹ See Article 59 of the same law.

In all of the above cases, the Public Prosecutor must be notified immediately.³²

It is thus evident that the legislature, through the provisions of the Consumer Protection Law, has empowered supervisory officers to intervene immediately without the need for prior authorisation from competent judicial authorities. This measure aims to ensure prompt action and to avoid placing obstacles in the way officers perform their duties, particularly in all the aforementioned cases, most of which concern counterfeit, fraudulent, or expired products.

5. Destruction of Products

Where it is impossible to find a lawful or economically viable use for seized or permanently withdrawn products, destruction is employed. This procedure involves applying a specific method to eliminate the product permanently. Examples include burning goods, burying them underground, chemically decomposing them, or employing other scientifically recognised methods of destruction carried out by supervisory officers in this context.³³

Accordingly, the decision to destroy any noncompliant product, whether seized or permanently withdrawn, is made by supervisory officers.³⁴ In fulfilling their mandate to protect consumers, all precautionary measures, including the destruction of products, should be implemented. The order for destruction may be issued by either of two authorities: the body responsible for consumer protection and fraud prevention or the competent judicial authority. This measure must be carried out in the presence of supervisory officers and executed by the stakeholder concerned.

Destruction may also be performed by altering the nature of the product.

A destruction report must be drawn up by supervisory officers and signed by the stakeholder concerned.³⁵ The Public Prosecutor must be notified immediately, and the territorially competent Public Prosecutor must be informed without delay in cases where the operator refuses to comply with the destruction order for the product in question.³⁶

6. Temporary Suspension of Business Activities or Administrative Closure of Commercial Premises

The temporary suspension of business activities is one of the precautionary measures that supervisory officers may adopt in the course of exercising their duties related to product compliance. This measure is provided for under Article 53 of Law No. 09-03 on Consumer Protection and Fraud Prevention. However, through Law No. 18-09, the legislature amended the aforementioned article to introduce an additional precautionary measure, namely, the administrative closure of commercial premises.³⁷

In accordance with the provisions of the Consumer Protection and Fraud Prevention Law, consumer protection and fraud prevention authorities may impose a temporary suspension of business activities or an administrative closure of commercial premises for a period not exceeding fifteen days. This period may be renewed in cases where noncompliance with the rules established under the Consumer Protection and Fraud Prevention Law is confirmed and the measure shall remain in effect until all causes that led to the imposition of the temporary suspension of business activities or administrative closure of commercial premises have been fully remedied.³⁸

³² See Article 62 of Law No. 09-03.

³³ Salwa Gaddach, *The Obligation to Guarantee Products in Consumer Contracts* (previously cited), 249.

³⁴ *Guide de l'Inspecteur de la Répression des Fraudes*, previously cited, 20.

³⁵ See Article 64 of Law No. 09-03.

³⁶ *Guide de l'Inspecteur de la Répression des Fraudes*, previously cited, 20-21.

³⁷ The Algerian legislature also provided for the administrative closure of commercial premises in Article 46 of Law No. 04-02 of 23 June 2004, Establishing the Rules Applicable to Commercial Practices, *Official Gazette* No. 41 (27 June 2004), as amended and supplemented by Law No. 10-06 of 15 August 2010, *Official Gazette* No. 46 (18 August 2010).

³⁸ See Article 65 of Law No. 09-03, as amended by Article 3 of Law No. 18-09.

Following the presentation of the administrative authority's full range of precautionary powers concerning domestic products, it is necessary to address, in conclusion, the issue of expenses arising from the precautionary measures outlined above.

Under Article 60 of Law No. 09-03, prior to its amendment, the legislature distinguished between two scenarios concerning the payment of expenses:

- The first concerns cases where noncompliance is established. In such instances, the negligent stakeholder is required to bear the costs resulting from oversight operations, analyses, tests, or examinations.
- The second applies where noncompliance is not proven through analyses, tests, or examinations. In this case, the legislature did not oblige the stakeholder to cover these costs. Instead, the value of the sample was reimbursed to the stakeholder on the basis of the value recorded and documented in the sampling report.

This was how the legislature addressed the issue of expenses under Law No. 09-03 before its amendment. However, this approach was abandoned when Article 60 of Law No. 09-03 was repealed by Article 18 of Law No. 18-09 on Consumer Protection and Fraud Prevention.

The expenses arising from the implementation of measures such as product deposit, analyses, tests, examinations, corrective actions to restore compliance, temporary withdrawal, redirection, repurposing, seizure, and destruction are now borne by the stakeholder.³⁹ Regardless of whether the analyses, tests, or corrective measures ultimately confirm noncompliance.

In contrast, in regard to redirection, repurposing, seizure, and destruction, there is no question of the absence of noncompliance, as the circumstances warranting the application of these measures have already been established. In such cases, the confirmation of noncompliance is a prerequisite, and the negligent stakeholder is unequivocally required to bear the associated costs.

Section Two: Administrative Oversight of Imported Product Compliance at Border Points

In addition to monitoring product compliance at the market level, the legislature has extended oversight to border points concerning the verification of imported product compliance.

The legislature has set forth conditions for exercising this type of oversight, mandating that it be conducted prior to the customs clearance of imported goods. Furthermore, this verification must be carried out in accordance with established priorities, taking into account the specific nature of the product under inspection. In parallel, this responsibility has been assigned to specialised bodies, along with specific procedures for the administrative oversight of product compliance at border points (First).

On the basis of the findings resulting from these procedures, supervisory officers are empowered to adopt precautionary measures applicable to imported products at border points (Second).

First: Oversight Bodies and Procedures for Administrative Monitoring of Imported Product Compliance at Border Points

³⁹ See Article 66 of Law No. 09-03, as amended by Article 5 of Law No. 18-09 (whereby the legislature added the clause "the stakeholder shall bear the costs arising from ... analyses, tests, or examinations," which had not been included in Article 66 prior to the amendment).

Public authorities have established essential conditions to ensure the compliance of products entering Algeria, particularly in light of the recent rise in fraudulent practices and the importation of noncompliant goods.⁴⁰ Therefore, the legislature has stipulated that products that are not marketed in their country of origin due to failure to meet safety requirements may not be placed on the national market.⁴¹

On this basis, the legislature has sought to combat such violations through administrative oversight by creating specialised bodies responsible for monitoring compliance at border points, alongside establishing specific procedures governing the administrative oversight of imported products.

1. Oversight Bodies at Border Points

Pursuant to the provisions of Executive Decree No. 05--467, which sets out the conditions and procedures for monitoring the compliance of imported products at border points,⁴² Article 2 states that compliance oversight of imported products is carried out at land, sea, and air border checkpoints by border inspectorates under the authority responsible for consumer protection and fraud prevention. In addition, customs services also play a crucial role not only in safeguarding state borders in terms of security and economic control but also in protecting consumers by preventing the entry of counterfeit and fraudulent goods and monitoring their circulation.⁴³

In addition to the aforementioned authorities, the role of fraud prevention officers under the Ministry of Commerce must also be emphasised. Thus, administrative oversight at border points, aimed at ensuring product compliance, is conducted in coordination among the following bodies:

A. Border Inspectorates under the Authority Responsible for Consumer Protection and Fraud Prevention

In the application of Article 6 of Executive Decree No. 11--09, which regulates the organisation, powers, and functions of the external services of the Ministry of Commerce, the legislature mandated that the Directorate of Commerce at the wilaya (provincial) level be equipped with inspectorates for quality control and fraud prevention at land, sea, and air border points, as well as in bonded zones and warehouses. The staffing of these inspectorates is determined according to the volume of goods transiting through each area, with the possibility of equipping these inspectorates with inspection teams as necessary.⁴⁴

The Regional Inspectorate of Commerce and the Inspectorate for Quality Control and Fraud Prevention at land, sea, and air border points are established by a joint decree between the Minister of Commerce, the Minister of Finance, and the authority responsible for the civil service.⁴⁵ In this regard, and in application of the provisions of Article 6 mentioned above, the Joint Ministerial Decree of 13 November 2011 was issued, establishing inspectorates for quality control and fraud prevention at land, sea, and air border points, as well as in bonded zones and warehouses.⁴⁶

⁴⁰ Boudehane, Moussa. *Système Juridique de la Normalisation* (Ain M'lila, Algeria: Dar El-Houda, 2011), 19.

⁴¹ See Article 12 of Executive Decree No. 12-203 of 6 May 2012 on the Rules Applicable in the Field of Product Safety, *Official Gazette* No. 28 (9 May 2012).

⁴² Executive Decree No. 05-467 of 10 December 2005 Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points, *Official Gazette* No. 80 (11 December 2005).

⁴³ Samah Mahmoudi and Nabil Nougui, "Oversight as a Mechanism to Protect Consumers from the Risks of Non-Compliant Products," in *The Legal System of Consumer Protection in Algerian and Comparative Legislation*, Collective Work, Law and Local Development Laboratory, University of Adrar, Algeria, September 2020, 147.

⁴⁴ See Joint Ministerial Decree of 22 September 2014 Defining the Number of Inspection Teams in the Wilaya Directorates of Commerce, Regional Inspectorates, and Inspectorates for Quality Control and Fraud Prevention at Land, Sea, and Air Borders, and in Bonded Zones and Warehouses, *Official Gazette* No. 66 (9 November 2014).

⁴⁵ See Article 6, paragraph 2, of Executive Decree No. 11-09 of 20 January 2011 Organising the External Services of the Ministry of Commerce, Their Powers, and Operations, *Official Gazette* No. 4 (23 January 2011).

⁴⁶ Joint Ministerial Decree of 13 November 2011 Establishing Inspectorates for Quality Control and Fraud Prevention at Land, Sea, and Air Borders, and in Bonded Zones and Warehouses, *Official Gazette* No. 24 (25 April 2011).

According to Article 2 of this decree, fifty inspectorates for quality control and fraud prevention were created at land, air, and sea border points, in addition to bonded areas and warehouses. The Regional Inspectorate of Commerce and the Inspectorate for Quality Control and Fraud Prevention are managed at these locations by the heads of inspectorates, who are assisted in their duties by the heads of inspection teams.⁴⁷

The duties of the heads of inspectorates include endorsing and stamping authorisations for the entry of products found to be compliant following the completion of inspection procedures, as well as endorsing and stamping decisions of refusal in cases of noncompliance. They are also responsible for reviewing appeals submitted by importers in the event of a refusal decision. Where a violation is confirmed, the heads of inspectorates refer the case to the competent judicial authorities.⁴⁸

B. Customs Administration Services

Border crossings hold significant importance for every state, as they control the movement of individuals and goods. In this context, the customs administration plays a crucial role, serving as the first line of defence and the first government body to receive and inspect incoming shipments. Its role is particularly vital.⁴⁹ The compliance of imported products entering national borders should be ensured.

The customs administration is entrusted with several clearly defined tasks, foremost among them being the verification that imported or exported goods have undergone compliance inspection procedures in accordance with the applicable legal and regulatory framework.⁵⁰

Upon the arrival of imported products, whether newly imported, reimported, or intended for export, these goods must be presented to the competent customs office for customs inspection. This process ensures that goods comply with established oversight regulations and prevents the unlawful import of noncompliant products.

2. Procedures for Administrative Oversight of Product Compliance at Border Points

Administrative oversight at border points about product compliance is conducted in the same manner as for equivalent domestically produced goods, ensuring that inspection procedures do not compromise the quality or safety of the product.

Consequently, border inspections of imported goods focus on documentary verification or visual inspection of the products, which the collection of product samples may supplement.⁵¹ These procedures are outlined below.

A. Documentary Verification

Border inspections of imported products begin with documentary verification as the initial procedure. This is conducted on the basis of the file submitted by the importer or their legally authorised representative to the relevant border inspectorate. The file must include the following documents:⁵²

⁴⁷ See Article 8 of Executive Decree No. 11-09 of 20 January 2011 Organising the External Services of the Ministry of Commerce, Their Powers, and Operations, *Official Gazette* No. 4 (23 January 2011).

⁴⁸ Asma Maakouf, *Oversight of Imported Products under Consumer Protection Law in Algeria* (Master's thesis, Faculty of Law and Political Science, University of Constantine 1, 2012-2013), 39.

⁴⁹ El-Sadeq Sayad, *Consumer Protection under the New Law No. 09-03 on Consumer Protection and Fraud Prevention* (Master's thesis, Faculty of Law, University of Constantine 1, 2013-2014), 113.

⁵⁰ See Article 2 of Law No. 17-04 of 16 February 2017, Amending and Supplementing Law No. 79-07 Constituting the Customs Code, *Official Gazette* No. 11 (19 February 2017).

⁵¹ See Article 6 of Executive Decree No. 05-467 of 10 December 2005 Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points, *Official Gazette* No. 80 (11 December 2005).

⁵² See Article 3 of the same decree.

- An import declaration prepared by the importer in due form, containing detailed information about both the importer and the imported product.⁵³ This declaration must be signed and stamped by the importer and acknowledged by the border inspectorate, with all the information provided therein required to be accurate.
- A certified true copy of the extract from the commercial register.
- A certified true copy of the invoice.
- The originality of any other document required under the applicable regulations related to the conformity of imported products.

At this stage, the supervisory officer carefully examines all the documents accompanying the product. Once the documentary verification process is complete, the officer proceeds with a physical inspection consisting of a direct visual examination of the goods.⁵⁴

B. Visual inspection of products

According to the provisions of Executive Decree No. 05--467, which sets forth the conditions and procedures for monitoring the compliance of imported products at border points, Article 7 provides that visual inspection is conducted to ensure the following:

- The product's compliance with legal or regulatory specifications.
- The product's compliance with conditions of use, transportation, and storage.
- The product's conformity with labelling information and/or accompanying documentation.
- The absence of any damage or potential contamination of the product.

If compliance with the imported product cannot be confirmed following documentary verification or visual inspection or if doubts regarding noncompliance persist, the procedure proceeds to the next step: **sample collection**.

C. Sample collection

When visual inspection by authorised officers necessitates sample collection, this procedure may take two forms. The most common method involves the collection of three homogeneous samples representative of the inspected batch. Alternatively, in exceptional circumstances such as perishable goods, or owing to the product's nature, weight, limited quantity, or high value, a single sample may be collected.⁵⁵

The first sample is sent to an authorised laboratory for analysis. In contrast, the second and third samples are retained as control samples, one kept by the supervisory authority that carried out the sampling and the other by the stakeholder concerned.⁵⁶

⁵³ See Article 2 of the Decree of 14 May 2006, Defining the Templates and Content of Documents Related to the Oversight of Imported Product Compliance at Border Points, *Official Gazette* No. 52 (20 August 2006), as amended.

⁵⁴ *Guide de Contrôle des Appareils Électroménagers*, Direction Générale du Contrôle Économique et de la Répression des Fraudes, Ministère du Commerce, 15.

⁵⁵ *Guide de l'Inspecteur de la Répression des Fraudes*, previously cited, 24.

⁵⁶ See Article 40 of Law No. 09-03.

Following the aforementioned sampling procedure, the sample is immediately transported, under conditions that prevent damage or deterioration of the product under inspection, to an accredited laboratory for the purpose of conducting analyses, tests, and examinations to determine the product's compliance status. The results of the inspection must be communicated by the relevant border inspectorate within forty-eight hours, counting from the date on which the importer or their legal representative submitted the file to the border inspectorate, and this must take place prior to the customs clearance of the imported goods.

This period may be extended if the analyses, tests, and examinations require additional time; however, the extension may not exceed the maximum period prescribed by regulations for the storage or temporary deposit of imported goods.³⁷

The legislature's rationale for imposing these deadlines lies in the need to prevent the accumulation of imported goods at border points while ensuring that supervisory officers deliver timely decisions on each importer's file within reasonable timeframes, thereby avoiding harm to both the importer and the goods awaiting test results. The legislature acted wisely in setting these short deadlines while simultaneously allowing the use of private laboratories, in addition to state-accredited laboratories, to expedite the analysis and testing of samples under examination.

Second: Precautionary Measures Applied to Imported Products at Border Points

Supervisory officers at border points are authorised to take all the precautionary measures necessary to protect consumers from the risks posed by noncompliant products. These measures are determined on the basis of the outcomes of document verification, visual inspection, or sample collection and testing. These procedures lead to the application of two possible measures: the first is conditional authorisation for the entry of imported goods at border points; the second, which is the opposite measure, is the outright refusal of entry for imported goods at border points. These issues are discussed below.

1. Conditional Authorisation for Imported Goods at Border Points

Under Law No. 09-03 on Consumer Protection and Fraud Prevention, prior to its amendment, Article 53 suggested that supervisory officers could impose a temporary refusal of entry for goods at border points where there was suspicion of noncompliance.

The legislature subsequently amended Article 53³⁸ of Law No. 09-03 through Article 2 of Law No. 18-09 on Consumer Protection and Fraud Prevention. In this amendment, the term "temporary refusal of entry" was replaced with the concept of "conditional entry authorisation" for imported goods at border points.

Supervisory officers now declare conditional entry authorisation for imported goods at border points to verify their compliance within bonded areas, specialised institutions, or the importer's premises, provided that compliance verification does not pertain to the safety and security of the product. Furthermore, products subject to conditional entry authorisation may not be placed on the market for consumption until their compliance has been fully verified.³⁹

³⁷ See Articles 12, 13, and 14 of Executive Decree No. 05-467, Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points.

³⁸ This article was amended following proposals made by representatives of the Customs Administration during their presentation before the members of the Economic, Industrial, and Commercial Affairs and Planning Committee of the National People's Assembly, in the presence of the Director General of Customs. The amendment replaced the term "temporary entry" of imported goods with a more precise expression to ensure effective customs operations in the field and to prevent legal loopholes that could be exploited for illicit purposes. The representatives also proposed several amendments to strengthen consumer protection and safeguard the national economy. These discussions took place during the debate on Law No. 09-03 on Consumer Protection and Fraud Prevention before the National People's Assembly. See article published on the Algerian Press Service website, 2 February 2018, <https://www.aps.dz/ar/economic/52827-2018-02-02-17-53-10>

³⁹ See Article 2 of Law No. 18-09, amending Article 54 of Law No. 09-03.

Compliance verification, in cases where noncompliance relates to the intrinsic quality of the product, is carried out by eliminating the cause of nonconformity in accordance with applicable regulations or in the manner authorised by the regionally competent directorate.

Compliance verification may also take the form of downgrading the product's classification, redirecting it for processing, or repurposing it for a different use, provided that these corrective actions do not damage the quality of the product.⁶⁰

The compliance verification process is conducted under the supervision of the consumer protection and fraud prevention authorities at the location where the verification takes place. Once this process is completed and all causes of noncompliance are fully resolved, the relevant border inspectorate issues an authorisation for the entry of the imported product. If compliance verification is not carried out within the required timeframes at the specialised institution or the importer's warehouses, the noncompliant product is seized.⁶¹

Supervisory officers may also, without the need for sample collection and based solely on the aforementioned documentary verification or visual inspection of the product, grant authorisation for the entry of the product. The competent border inspectorate issues this authorisation if no violation is detected.⁶²

Accordingly, to revise the previously adopted model of "product entry authorisation," the legislature issued the decree of 19 November 2019.⁶³ The decree of May 2006 defines the templates and content of documents related to the inspection of imported products at border points. This decree introduced a standardised model for conditional entry authorisation for products, which must be used by supervisory officers when issuing such decisions.

Thus, conditional entry authorisation is prepared by supervisory officers for the purpose of verifying compliance. This document records all relevant information concerning the importer, details of the imported product subject to inspection, and a description of the inspections carried out. On the basis of these inspections, conditional entry for compliance verification is granted, with the head of the border inspectorate endorsing and stamping the authorisation, specifying the date of issuance.

2. Final Refusal of Entry for Imported Products at Border Points

In addition to conditional entry authorisation for imported goods at border points, a further measure may be imposed in cases of noncompliance: the final refusal of entry for imported products at border points. Article 53 of Law No. 09-03 on Consumer Protection and Fraud Prevention (as amended and supplemented) provides that supervisory officers may take all the precautionary measures necessary to protect consumers, including the final refusal of entry for imported goods at border points. This measure is declared when noncompliance is established, either through visual inspection or thorough investigations.⁶⁴

It is applied in cases where violations are detected during documentary verification, visual inspection, or after confirmation through sample testing. In such cases, the competent border inspectorate issues a formal decision of refusal of entry, clearly stating the reason for the refusal.⁶⁵

⁶⁰ See Article 19 of Executive Decree No. 05-467, Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points.

⁶¹ See Articles 20 and 21 of the same decree.

⁶² See Article 9 of the same decree.

⁶³ Decree of 19 November 2019 Supplementing the Decree of May 2006, Defining the Templates and Content of Documents Related to the Oversight of Imported Product Compliance at Border Points, *Official Gazette* No. 8 (16 February 2020).

⁶⁴ See Article 54 of Law No. 09-03.

⁶⁵ See Article 9 of Executive Decree No. 05-467, Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points.

Supervisory officers draft the decision of refusal of entry. They must include detailed information about the importer and the imported product, along with a record of the various inspection procedures carried out. It is also mandatory for the decision to clearly state the reasons for refusal.⁶⁶

However, under the provisions of Executive Decree No. 05-467, which sets forth the conditions and procedures for monitoring the compliance of imported products at border points, Article 10 grants importers the right to appeal a decision of final refusal of entry for their imported goods. This appeal may be exercised through a three-tier process:

A. Appeal by the Importer Against the Reason for Refusal of Entry Before the Competent Wilaya Directorate of Commerce

The importer or their legally authorised representative may file a legally substantiated appeal with the territorially competent wilaya Directorate of Commerce. This right enables the importer to contest the grounds for the refusal of entry, and the details of the appeal are recorded in a hearing report.

To exercise this right, the importer must submit the appeal within eight days, counted from the date on which supervisory officers notified them of the refusal of entry. The wilaya Directorate of Commerce then has a period of four working days to review the reasons outlined in the appeal. If the appeal is found to be legally sound and well founded, the refusal decision is overturned. If, however, the review of the appeal, as documented in a detailed report, confirms the findings on which the refusal decision was based, the refusal is upheld.⁶⁷

B. Appealing by the Importer Against the Reason for Refusal of Entry Before the Competent Regional Directorate of Commerce

If the importer remains determined to exercise their right to appeal the decision of refusal of entry and fails in having the decision overturned by the territorially competent wilaya Directorate of Commerce, the legislature, pursuant to the provisions of Executive Decree No. 05-467 and Article 15 thereof, grants the importer the right to submit an appeal to the territorially competent regional Directorate of Commerce. This appeal concerns the disposition of the noncompliant product, whether for compliance verification, repurposing, re-export, or destruction. The regional Directorate of Commerce has five working days to decide on the appeal submitted at its level.

C. Notification by the Importer to the Central Authority Responsible for Consumer Protection and Fraud Prevention Regarding the Refusal of Entry

If the importer receives no response to their appeal or if the response is not delivered within the prescribed timeframe, they may notify the central authority responsible for consumer protection and fraud prevention to obtain a final decision on their request.⁶⁸

Thereafter, the relevant border inspectorate is notified of the cancellation of the decision to refuse entry of the product. Suppose the imported product is found to be noncompliant. In that case, the border inspectorate that ordered the refusal of entry should transmit a copy of this decision to the customs services at the point where the imported product entered the national territory.⁶⁹

⁶⁶ See Article 5 of the Decree of 14 May 2006, Defining the Templates and Content of Documents Related to the Oversight of Imported Product Compliance at Border Points, *Official Gazette* No. 52 (20 August 2006), as amended.

⁶⁷ See Articles 10 and 11 of Executive Decree No. 05-467, Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points.

⁶⁸ See Article 16 of Executive Decree No. 05-467, Setting the Conditions and Procedures for Monitoring the Compliance of Imported Products at Border Points.

⁶⁹ See Articles 11 and 24, paragraph 2, of the same decree.

However, after the importer's right to appeal against a decision refusing entry of a product under the provisions of Executive Decree No. 05-467, which sets the conditions and procedures for monitoring the compliance of imported products at border points, this right has been granted in an absolute and undefined manner. The legislature has merely required that the appeal be legally substantiated, without specifying the circumstances in which the importer may or may not exercise this right. In our view, it would be preferable for the legislature to clearly determine the cases in which an appeal is permissible and those in which it is not. For example, when supervisory officers conduct inspections through documentary verification or visual observation, it is reasonable to recognise the importer's right to appeal, given that errors in assessing compliance may occur. However, once samples have been collected and analysed by specialised laboratories, it cannot reasonably be argued that such results remain challenging. It would therefore be desirable for the legislature to address and clarify this point, establishing the circumstances under which appeals are admissible to avoid unnecessary delays and the excessive number of appeals submitted by importers.

Moreover, in this context, an additional penalty has been established for violations of precautionary measures to ensure their integrity and prevent interference by stakeholders, whether at the market level or at border points. Article 155 of the Penal Code⁷⁰ Criminalises the intentional breaking of seals affixed by the order of a public authority or any attempt thereof. Where the breaking of seals, or an attempt to do so, is committed by the designated custodian, or through the use of violence against persons, or with the intent to steal or destroy evidence or legal documents in criminal proceedings, the offense is punishable by imprisonment for a term of two to five years.

Furthermore, Article 79⁷¹ of Law No. 09-03 on Consumer Protection and Fraud Prevention (as amended and supplemented) provides that any person who sells a product that has been sealed, deposited for compliance verification, temporarily withdrawn from the market, or who violates an order for temporary suspension of activity or administrative closure of commercial premises shall be punished by imprisonment for a term of six months to three years and a fine ranging from five hundred thousand to two million Algerian dinars or by one of these two penalties.

On the basis of all the above, and pursuant to Article 12 of Law No. 09-03 on Consumer Protection and Fraud Prevention, the legislature has required stakeholders to exercise prior self-monitoring in addition to affirming the powers of the administration to carry out such oversight and adopt appropriate precautionary measures accordingly.

At the same time, the administration must act with reasonableness and proportionality in exercising the oversight powers conferred upon it so as not to deviate from its legitimate objectives and risk an abuse of authority. Notably, all the aforementioned measures and their consequences do not preclude negligent stakeholders from being subject to civil and criminal liability.⁷²

Conclusion:

This study demonstrates that administrative oversight of product compliance constitutes one of the fundamental pillars of the consumer protection framework in Algeria, enabling administrative authorities to intervene directly both at the market level and at border points. With respect to domestic products, procedures such as inspection, examination, and sampling have proven important in the early detection of violations, a process further strengthened by the administration's powers to adopt precautionary measures, including seizure, withdrawal, or even destruction. For imported products, the pivotal role of overseeing bodies at border points is evident through strict procedures that may culminate in either conditional entry or final refusal.

On this basis, the following findings and recommendations can be drawn:

⁷⁰ Ordinance No. 66-156 of 8 June 1966, Constituting the Penal Code, *Official Gazette* No. 49 (11 June 1966), as amended and supplemented.

⁷¹ Article 79 of Law No. 09-03 was supplemented by Article 9 of Law No. 18-09.

⁷² Mohamed Imad Eddine Ayad, *The Consumer Contract in Algerian Legislation* (previously cited), 401.

- Administrative oversight is an effective mechanism for limiting the circulation of noncompliant products.
- The effectiveness of oversight is contingent upon strengthening coordination among various regulatory bodies.
- It is essential to equip oversight agencies with advanced technical means to facilitate swift and accurate detection.
- The imposition of stricter penalties on offenders is crucial to ensuring effective deterrence and enhanced consumer protection.

In conclusion, fostering a culture of effective oversight of both domestic and imported products represents a genuine safeguard for consumer protection and the preservation of the state's economic public order.

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Conflict of Interest

The author declares no conflict of interest related to the research, authorship, or publication of this article.

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