

### 3.1 LEGAL AUDIT

#### 3.1.1 LEGAL TEXTS PERTAINING TO THE REGIE

*This text was prepared in Arabic by Mr. Kamal Atrissi, the coordinating manager at the Regie. A copy was given to Team International and translated into English.*

#### Evolution of the Legal Status of The Regie

“The monopoly was founded on 30/1/1935 as per Decree No.16 issued by the French High Commissioner. This decree regulated the monopoly of growing, manufacturing, marketing, and transportation of Tobacco & Tombac and their derivatives over the entire Lebanese and Syrian territories.

On the basis of this decree, the French Commissioner issued, on the same date, a tender document relating to the monopoly of the Tobacco & Tombac industry, empowering the utilization of the monopoly to a mutual interest management, as the monopoliser for a period of 25 years expiring on 31/12/1960.

In the implementation of provision No. 11 of the tender document an anonymous company was established called “The Anonymous Company of Mutual Interest for the Monopoly of Tobacco and Tombac in Syria and Lebanon”, with a paid capital of 1.250 Million Lebanese Pounds. This capital was later increased to 1.375 Million Lebanese Pounds.

When the economic segregation between Syria and Lebanon took place in 1950, the monopoly was divided between the two countries with its assets and employees redistributed between the respective independent management of each country. This segregation was followed by reorganization of the two managements in order to become more compatible with the new status. Subsequently, the supervising board of the Lebanese monopoly was changed, becoming directly linked to the Lebanese Ministry of Finance in compliance with Legislative Decree No. 3 issued on 24/3/1950.

On 12/6/1959, the Legislative Decree No. 151 was issued allowing the government to monitor the management of the monopoly in a clear and detailed manner. This defined the functions of the monitoring staff in the Ministry of Finance from the Minister to the Director General including the government representative and the managerial auditor.

With the expiration of the franchise on 31/12/1960, and the implementation of Article 22 of the tender document based on monopoly law, the entire assets of the company were transferred to the Lebanese State without

constraints, and concurrently the government bore all liabilities. Meanwhile the company's shares had no nominal value after their gradual depreciation starting from the company's establishment and ending on the expiration of the franchise. This is notwithstanding that the company paid 5% interest per annum to the holders of those shares that had not been depreciated fully by the expiration of the franchise.

By the expiration of this franchise on 31/12/1960, the State was unable to formulate a legal structure for the monopoly. In the face of this vacuum, the State had to request that the outgoing company continues to run the monopoly on a temporary basis. This temporary measure lasted until 27/5/1964 when the State extended the franchise until 31/12/1973 in accordance with Decree No. 16693 - on the understanding that the relationship between the State and the managing company was to be reorganised on the basis of a new adhoc tender document.

The State continued to re-appoint the same managing company after 1973 to run the monopoly by periodical decrees issued by the Council of Ministers until the end of 1984, after which the company continued to function in managing the monopoly by default until 1991.

#### **The Phase of Monopoly Retrieval**

The Council of Ministers decided on 28/11/1991 (Decree No.59/8) to terminate the services of the managing company and appoint a 6 member committee to run the monopoly in accordance with the prevailing rules and regulations.

The Council of Ministers decided on 14/7/1992 (Decree No. 5/10) to replace the six-member committee with a three- member committee all of its members being recruited from the employees of the monopoly.

On 27/2/1993 (Decree 22/31), a general manager was appointed in addition to the three-member committee, and this appointment gave the right to the General Manager to exercise all the functions that are specified for general managers in the public sector, in harmony with the functions of the temporary three-member committee, until such a time that a final law could be formulated for the company".

***(END OF TRANSLATED TEXT).***

#### **Current Legal Status**

The Regie is currently owned by the Lebanese State and has been granted a monopoly on the manufacture, distribution, and importation of tobacco. The Regie monopoly is managed in a private fashion, its employees are not civil servants and are registered with the National Social Security Fund. In addition, the Regie has formed its own union.

The tender document 16 RL (Cahier de Charge 1935) defines the relationship between the company and the state. This document specifies the organisational structure and function of the Regie as well as its operations. The company is under the tutelage of the Minister of Finance. All personnel and financial aspects are subject to the authority of this ministry.

Legislative Decree No. 151/59 complements the previous laws pertinent to Regie rules and regulations. This defines mainly the overall control of the Regie by the Lebanese State.

The Regie is subject to pre-audit and post-audit control. The pre-audit control is exercised by a delegate of the Ministry of Finance currently Mr. Philip Sarkiis is in charge of this duty. The post-audit control is exercised by Regie auditors currently headed by Mr. Rabah Marini.

### **3.1.2 ACQUIRED RIGHTS OF RELATED BODIES**

This section pertains to the legal situation of certain activities and positions within the tobacco industry in Lebanon as it is described and organized in the laws and regulations related to the Regie.

#### **3.1.2.1 The Foreign Brands Agencies**

As per the prescriptions of Ordinance 16/L.R. dated January 30, 1935, the purchase, manufacture, and sale of tobacco regardless of its country of origin or the form in which those activities are taking place, are submitted to the Monopoly.

It is prohibited to bring tobacco or tobacco crops or the manufactured cigarettes unless they are imported for the purposes of the Administration of the Monopoly, so that any tobacco foreign brands or any local agents of such brands are not allowed to pursue any trading or manufacturing activities in Lebanon apart of the tobacco monopoly activity.

The above mentioned restrictions are limited to the trade and manufacture activities which affect the Lebanese market. The only free activity within those trades is the export of crops to foreign markets.

In the future, the foreign brands agents will not be allowed to deal with the export to foreign markets through their Lebanese base which means that they can't bring in their merchandise for the purpose of re-exporting.

The export from the Lebanese territory is limited to the Monopolist Administration.

### **3.1.2.2 The Tobacconists**

The third chapter of Ordinance 16/L.R. and Decision 2381 dated July 26, 1960, conditioned the whole and the retail sale of tobacco to a license issued in anticipation.

The said license is issued to a Lebanese individual so that it is transferable by inheritance.

There are two major types of licenses: a chief tobacconist license and a retail sale tobacconist license. This retail sale license is issued either for fixed sales or for ambulant sales. All type of licenses are issued by the Monopoly Administrator after acceptance of the Government commissioner.

### **3.1.2.3 The Growers**

The stipulations of Ordinance 16/L.R. are very clear and very strict regarding the tobacco cultivation. As per the said Ordinance, it is not permitted to grow or produce tobacco before a farmer submits a declaration of intention and receives a license in advance.

The application is presented to the local authority represented by the local mayor (Moukhtar) specifying the allocated piece of land, the type of tobacco, the area of cultivation allocated to the crops to be sold to the Regie, and the area allocated to the crops to be exported.

The Ministry of Finance should prepare before the 15th of October of each year a list showing the names of the growers, the licensed areas as specified above. The said list should be handed over to the Regie.

Article 14 of Decision 2381 mentioned above, gives the Monopoly Administration a direct right to investigate and examine the observance of the licensed areas by the grower and permits the said administration to destroy any contravened plantation nurseries.

### **3.1.2.4 The Regie's Employees Legal Situation**

The Regie employees are still considered, despite the recuperation of the Regie Administration by the Ministry of Finance, having an hybrid legal situation, giving them the right to benefit from the increments given to the private sector with all the benefits of their specific regulations.

## MANAGEMENT AUDIT

## 3.4 MANAGEMENT AUDIT

### 3.4.1 ORGANISATIONAL STRUCTURE

The Regie's current organisational structure is defined by Decision No.309 /1 dated May 23, 1979. Currently, the Regie is under the tutelage of the Minister of Finance. Its present organisational structure consists of:

- The General Manager
- The Government Commissioner
- A Coordination Directorate
- Four General Secretariats

The Four General Secretariats are headed by the General Manager. Each Secretariat General is divided into several Directorates. The Directorates are in turn subdivided into several Departments. The mission and objectives of Directorates and Departments are described in the By-Laws of the Regie. Figure (3.4.1-1) shows the Regie's current organisational structure.

The four General Secretariats are:

\* The **Administrative Secretariat General** (Refer to Figure 3.4.1-2) includes:

- Public Relations Directorate
  - Social Activities Department
  - Foreign Relations and Publicity Department
- Inspection Directorate
  - Administrative and Financial Inspection Department
  - Technical Inspection Department
- Litigation & Control Directorate
  - Litigation Department
  - Control Department
- Personnel Directorate
  - Personnel Affairs Department
  - Discipline and Guards Department

\* The **Commercial Secretariat General** (Refer to Table 3.4.1-3) includes:

- Fraud and Smuggling Control Directorate
  - Investigation and Coordination Department
  - Fraud and Smuggling Control Department
- Marketing Directorate
  - Marketing Department
  - Research and Development Department

- Sales Directorate
  - Licenses and Wholesale Agents Affairs Department
  - Distribution Department
- Import and Export Directorate
  - Insurance and Transport Department
  - Import and Export Department
- \* **The Technical Secretariat General** (Refer to Table 3.4.1-4) includes:
  - Buildings and Equipment Directorate
    - Studies and Planning Department
    - General Purchase Department
    - General Maintenance Department
  - Industrial Directorate
    - Plant Supply Department
    - Matn Department
    - Hadath Plant Department
  - Agricultural Research Directorate
    - Experiments and Agricultural Guidance Department
    - Agricultural Research Department
  - Tobacco and Tobacco Technology Directorate
    - Production Technology Department
    - Experts Development and Professional Training Department
    - Hadath Sorting Department
  - Bekaa Regional Directorate
    - Bekaa Department
    - Bekaa Agricultural and Purchase Department
  - North Regional Directorate
    - Batroun Department
    - Tripoli Department
    - North Agricultural and Purchase Department
  - South and Mount of Lebanon Regional Directorate
    - Nabatieh Department
    - Ghazieh Department
    - South and Mount Lebanon Agricultural and Purchase Department
- \* **The Financial Secretariat General** (Refer to Table 3.4.1-5) includes:
  - Finance Directorate
    - Budgeting Department
    - Accounting and Banking Department
  - Payroll and Social Security Directorate
    - Payroll Department
    - Social Welfare Department
  - E.D.P. Directorate
    - Programming Department
    - Operations Department

Fig (3.4.1-1)

REGIE CURRENT ORGANISATIONAL STRUCTURE

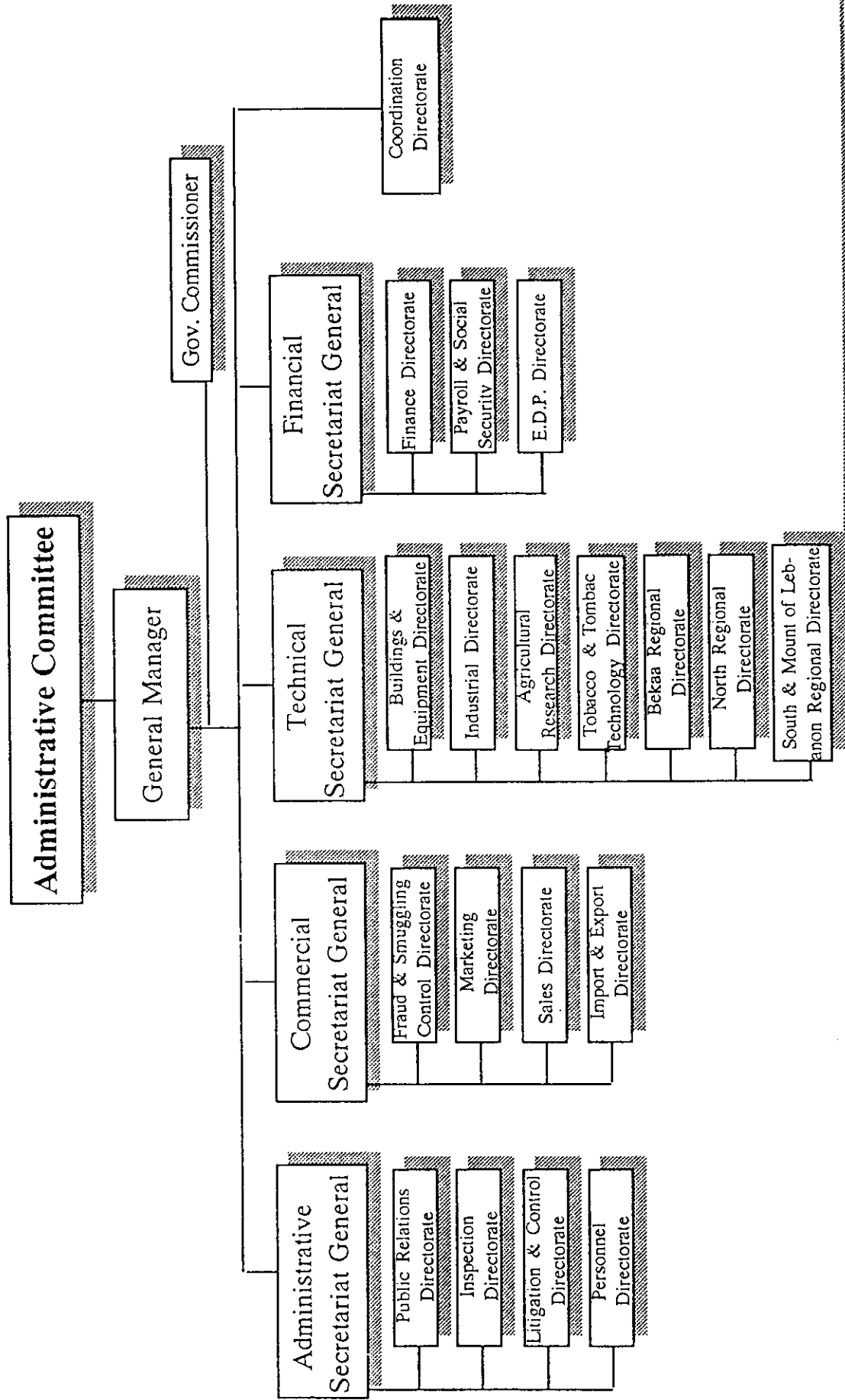




Fig (3.4.1-2)

*ADMINISTRATIVE SECRETARIAT GENERAL ORGANISATIONAL STRUCTURE*

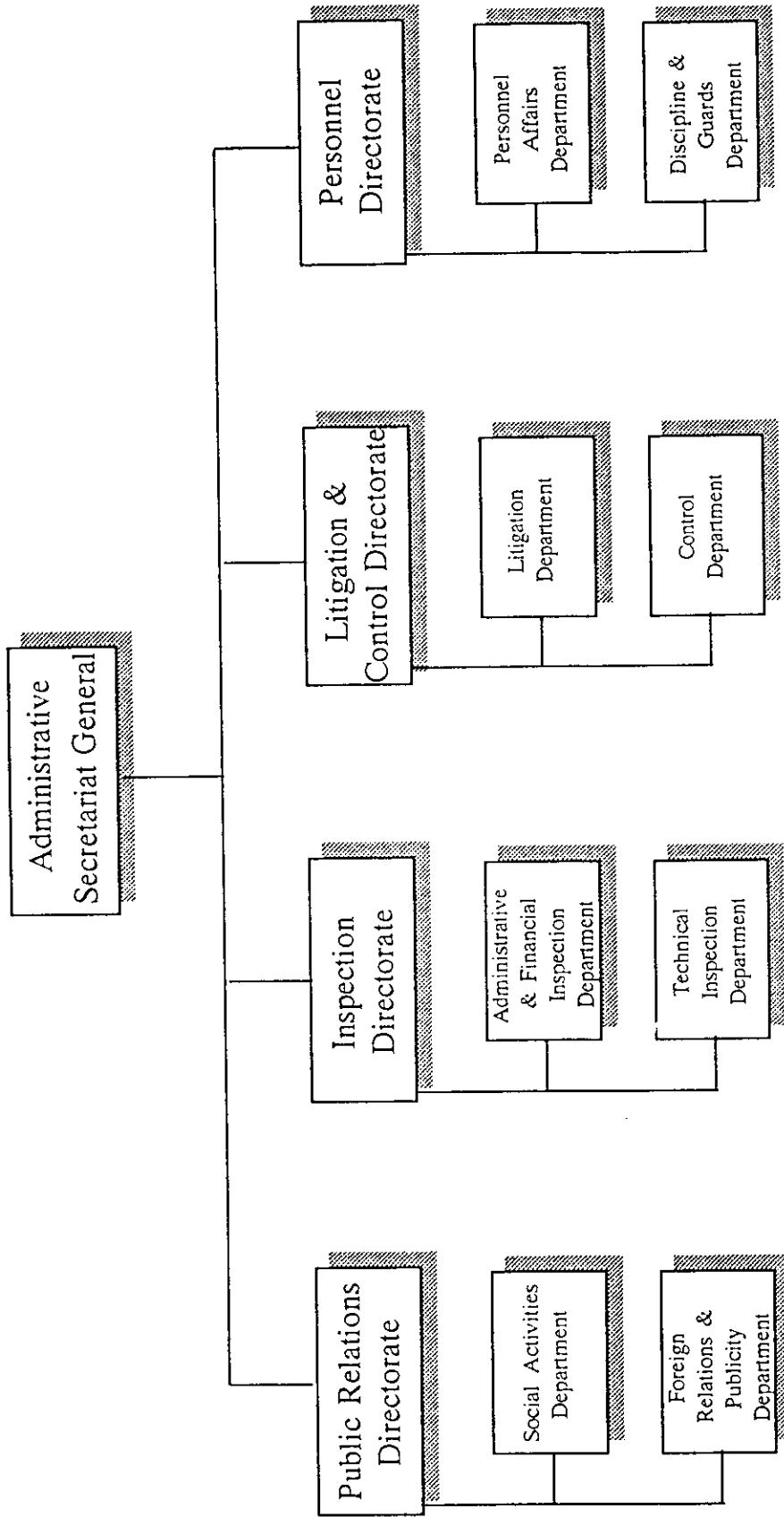


Fig (3.4.1-3)

COMMERCIAL SECRETARIAT GENERAL ORGANISATIONAL STRUCTURE

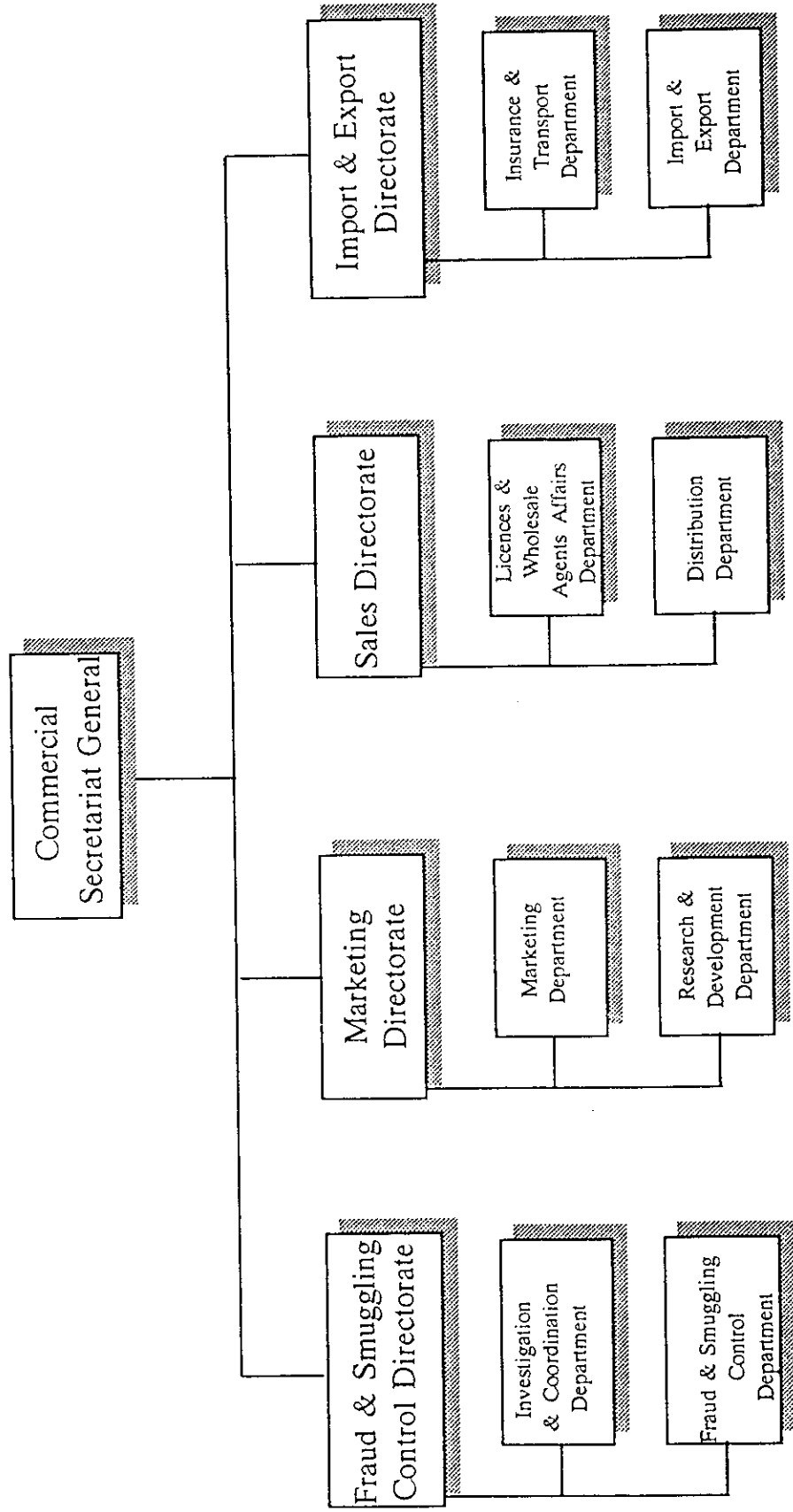


Fig (3.4.1-4)

*TECHNICAL SECRETARIAT GENERAL ORGANISATIONAL STRUCTURE*

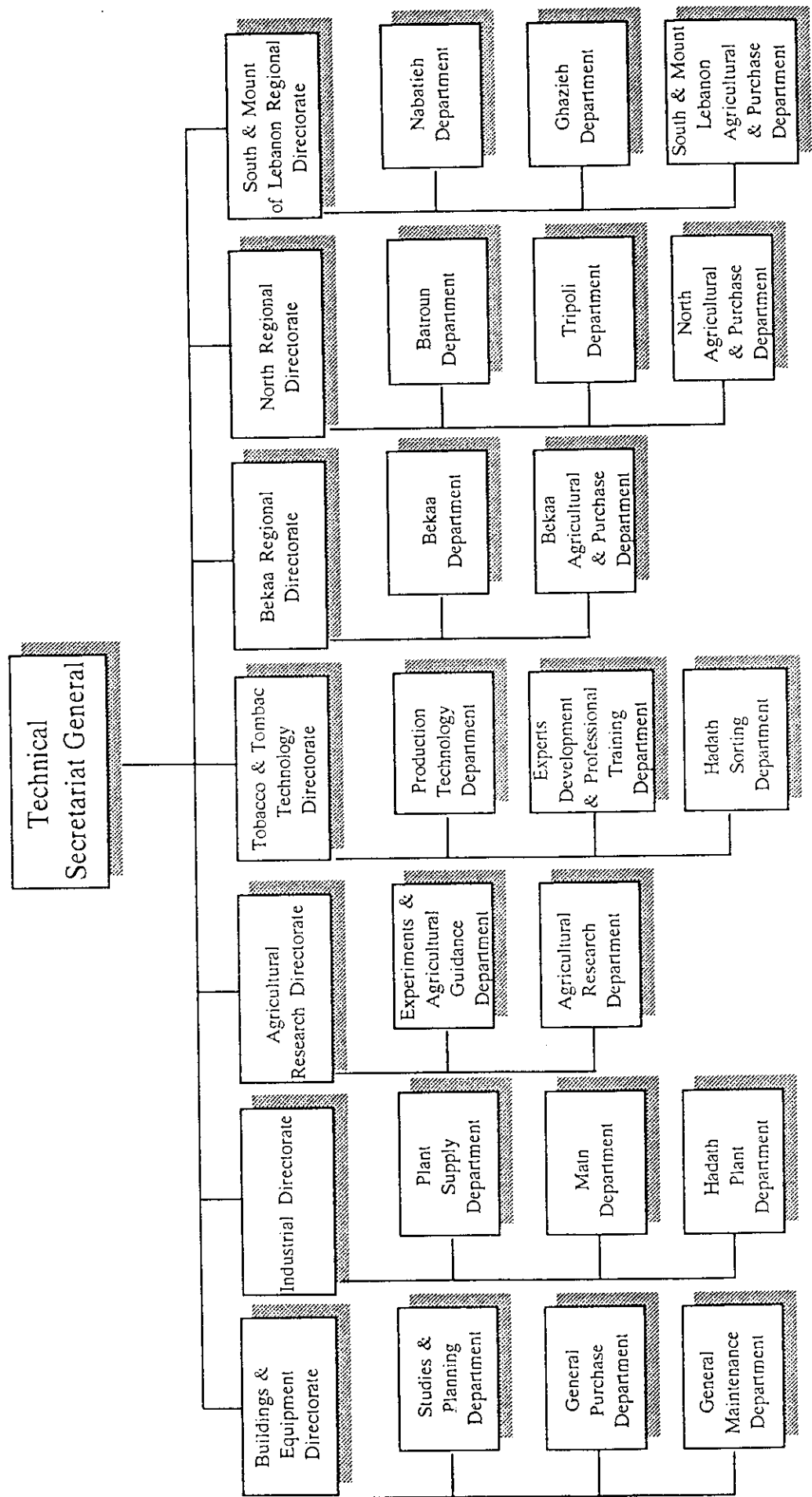
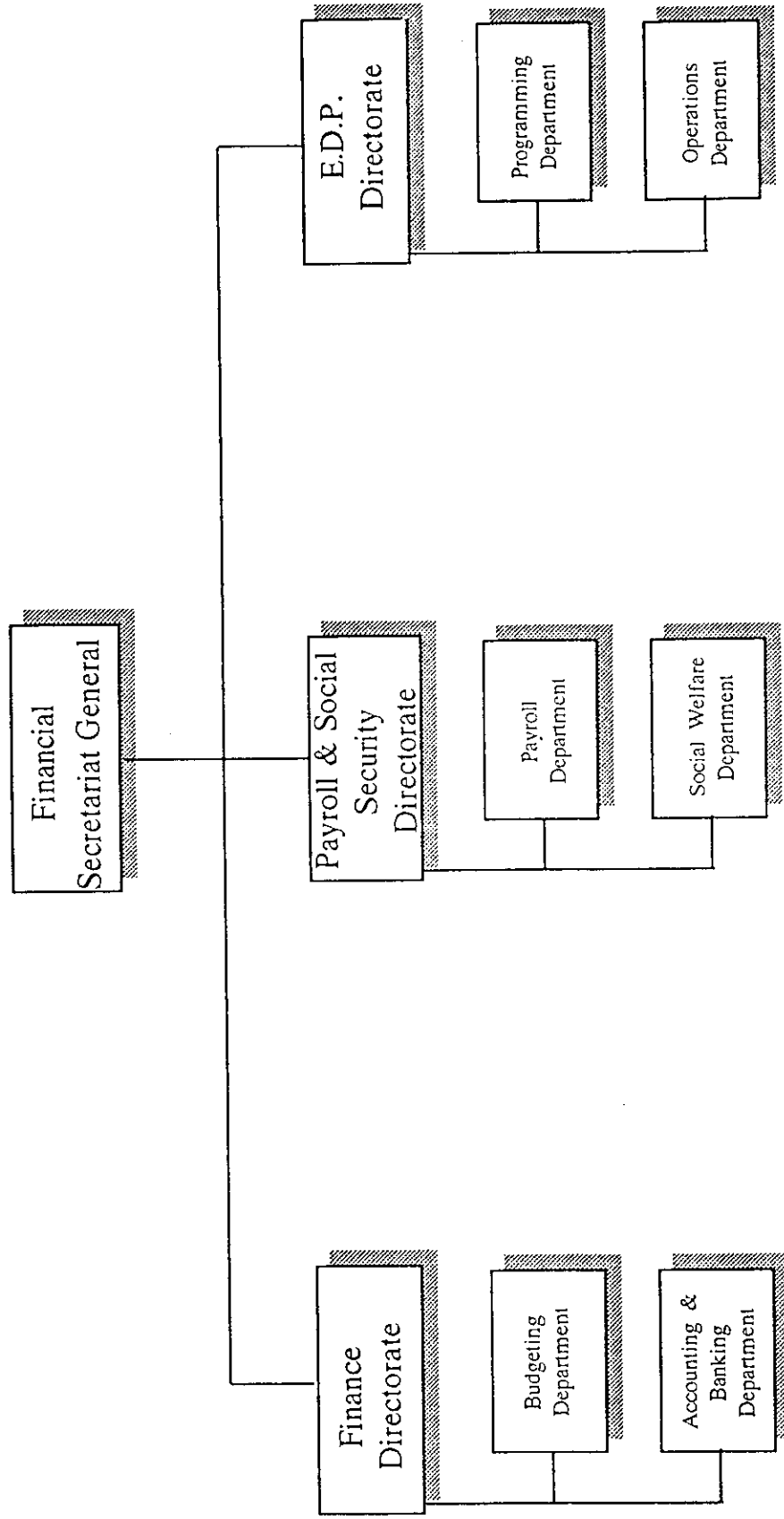


Fig (3.4.1-5)

*FINANCIAL SECRETARIAT GENERAL ORGANISATIONAL STRUCTURE*



The Regie plants are managed regionally as follows:

- Hadath (Headquarter) manages the Hadath Plant
- North: Tripoli, Batroun, Kfarsaroun, and Bekfaya plants
- Bekaa (Aquisition Office)
- South: Saadiyat laboratory, Ghazieh and Nabatieh plants

Figure (3.4.1-6) shows the Geographical Distribution of Regie's Offices

It is worth noting that a consulting firm has prepared in 1968 job descriptions and organisational structure for the Regie. Eventually job descriptions served as a reference for job performance evaluation and subsequent upgrading or functional promotion.

Besides, such job descriptions were used as a tool to improve the management of the concession company at that time. However, most of the job description manuals have been stolen or neglected during the war and the remaining manuals are at the Regie Headquarters. These manuals are now obsolete and can not serve anymore the Regie management due to the changes in the number of employees, expertise and management styles and systems.

### **3.4.2 DESCRIPTION OF MANAGEMENT PROCEDURES AND SYSTEMS**

Regie's management procedures and systems are not formally documented. The following information was concluded from Regie's internal notes and documents.

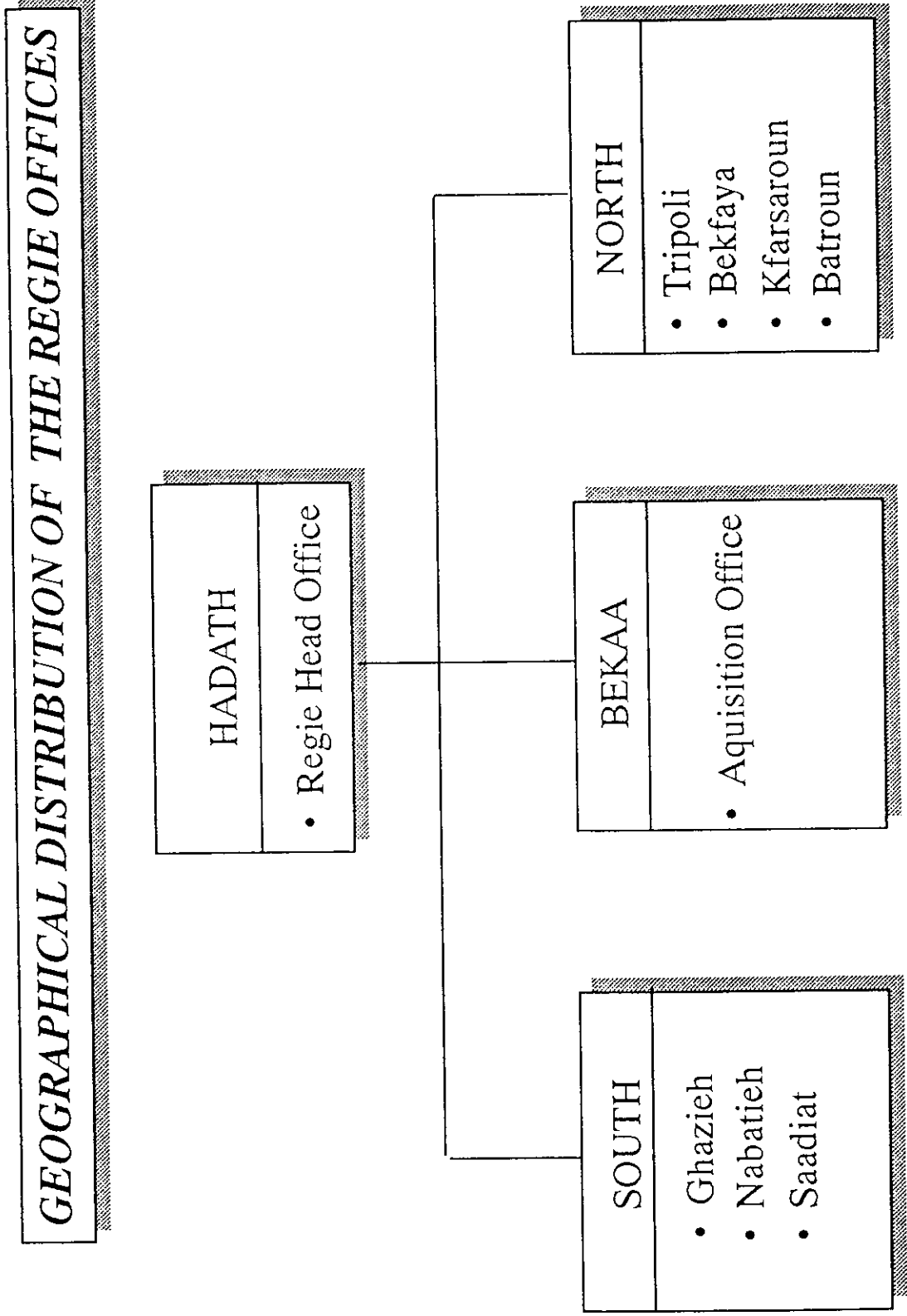
The main functions of the General Director and the Administrative Committee were defined by Decision No. 31/22 dated February 27, 1993, as follows:

The **General Director** has the authority to exercise all the functions defined for General Directors in the public sector.

The main functions of the **Administrative Secretariat General** comprise the following:

- Making new or amending existing procedure in the form of issuing informal written statements.
- Reviewing an existing procedure in the form of issuing an internal statement or notice.
- Following-up and enforcing legal decisions.
- Issuing administrative orders related to personnel.

Fig (3.4.1 - 6)



The main functions of the **Commercial Secretariat General** comprise the following:

- Initiation and expedition of Letters of Guarantee and pertinent transfer of funds.
- Preparation of the export and import budget.
- Preparation of proposals for bidding prices and quantities.
- Follow-up on the movement of sales in order to forecast the market demand and supply.
- Coordination with warehouses to identify available quantities and the status of new shipments.
- Follow-up of wholesalers deals including issuance of licenses and collection of funds.

The main functions of the **Technical Secretariat General** comprise the following:

- Request for purchasing equipment and materials.
- Proposition of price lists of tobacco and tobac packs.
- Submission of daily and weekly production report.
- Schedule of transport orders.
- Monitor the weight of tobacco and tobac packs.
- Update stock inventory of tobacco production.
- Issuance of licenses for "laisser-passer".

The main functions of the **Financial Secretariat General** comprise the following:

- Maintenance of the accounting books.
- Generation of periodic financial statements.
- Preparation of Letters of Guarantee and pertinent vouchers.
- Auditing and matching transactions among various sections, such as sales, costs, overheads, and payments.
- Control of the movement of balance sheet items.
- Preparation of the annual budget for the Regie.
- Follow-up on demands for commitment of funds.

The Regie's flow of documents follows a hierarchical process starting with the employee level until it reaches the top management level, i.e., the Minister of Finance. Figure (3.4.2-1) illustrates this process. Any document generated by the employees is passed from one level to the other until it reaches the Director. Once the Director receives this document, three possibilities are presented:

- The Director can deal with the document at this level and reply back to a lower department.
- The Director forwards the document to the Central Inspection Office in case it requires investigation and clarification. In turn, such a document is reported through the director's office to the Government Commissioner, the General Manager, and if necessary to the Minister of Finance to get the final approval.
- The Director forwards the document to the Budget/Accounting Department in case it pertains to financial and accounting matters. Again, such a document is reported through the director's office to the Government Commissioner, the General Manager, and if necessary to the Minister of Finance to get the final approval.

The hierarchical system ensures a systematic flow of documents. Theoretically, any document, request, or complaint can be accounted for, passed onto the right office, and appropriately dealt with. However, the aging bureaucratic administration has rendered the system rigid and inefficient.

### **3.4.3 PLANS AND PROJECTS**

Regie's plans and projects are summarized as follows:

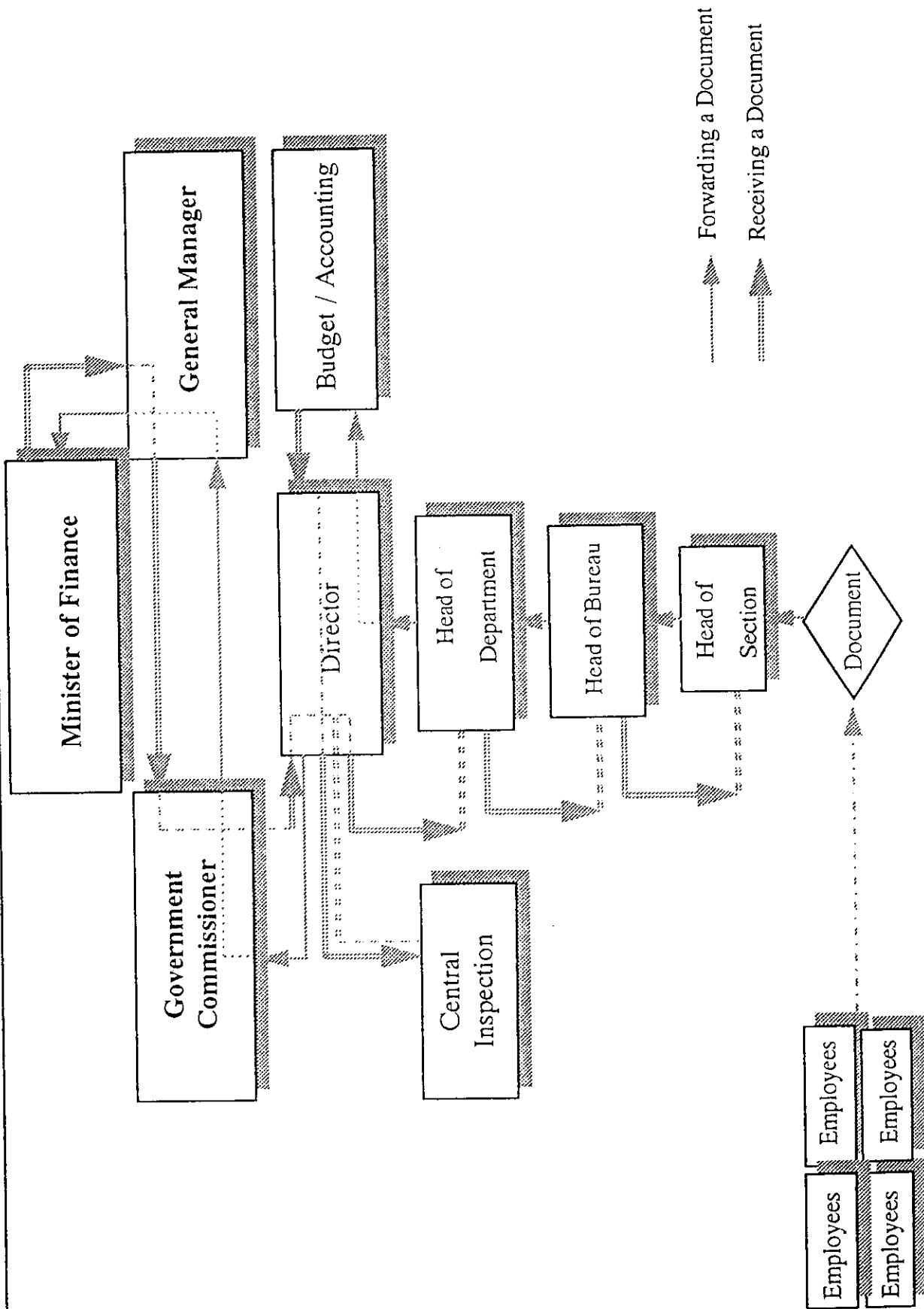
With respect to the **Administrative Secretariat General**, the following measures were implemented:

- Filling the vacant positions in grade B by promoting qualified employees from grade A (the lowest position in the Regie).
- A committee was formed to study the Regie's organisational structure taking into consideration the deteriorating condition of the manufacturing facilities and their output, and the need for reallocation of human resources. However, as a result of successive meetings, it was decided not to get involved in this task because it requires the proposition of a new organisational structure which is considered beyond the committee's scope.



Fig (3.4.2-1)

FLOW OF DOCUMENTS



- In order to increase productivity, specialists recommended the development of terms of reference relevant to process automation.
- There is an attempt to improve the administration in the Regie by means of permanent control and inspection.
- The centers that are no longer used by the Regie have been evacuated and appropriate propositions have been suggested regarding their future status.
- Exceptional compensations were paid to qualified employees who did not have the chance to be promoted to the next grade because of lack of vacant positions.
- Follow-up is being conducted between the Regie and the Social Security Fund on a continuous and weekly basis in order to provide all social security services for its employees.
- The Regie syndicate who is in the process of a legal pursuit against the Ministry of Finance, has formed a committee to reach a compromise with the Regie. They were put under probation according to the tutelage authority decision. The Ministry of Finance has stated that all those involved in the lawsuit should represent their case individually in the court.
- A proposal has been prepared to amend the agreement made with the Administration of Customs for smuggling issues. Subsequently, this proposal was submitted to the Administration of Customs for approval.
- The Regie has annually participated in the International Damascus Fair and the Eighth Southern Exhibition, in order to promote its products.

The proposals which were not implemented by the **Administrative Secretariat General** due to the disapproval of the tutelage authority are:

- Recruiting to fill the vacant positions in grades C and D.
- Filling the vacant positions for technicians and accountants.
- Contracting with a specialist to set the required automated rules for better efficiency and productivity.
- Organising training sessions to enhance employees skills.
- Proceeding with the syndicate lawsuit.
- Providing pagers and cellular phones for the inspectors.

- Equipping the Regie with computers and office equipment.
- Rehabilitating the conference and technical training rooms in the Hadath headquarters.
- Resolving administrative problems and finding the proper solutions relevant to the shortage of skilled personnel.

With respect to the **Commercial Secretariat General**, the following tasks were implemented:

- Total commitment in preparing and delivering Regie products to wholesalers taking into consideration the market estimated needs in terms of demand and supply.
- Monitoring the business relationship with dealers of foreign brands in light of demand and supply.
- Facilitating and speeding up the storage process of tobacco products.
- Reducing tobacco smuggling according to the request of the Minister of Finance.
- Following-up the completion of promotion campaign for “Maassal” product.
- Completing the terms of reference for general, internal and external transport, as well as freight insurance are concerned; and tendering as to schedule.
- Working in accordance to the national barter plan concerning exchanging local crops against new brands adopted on the market.
- Liquidating the merchandise of old stocks.
- Shipping the bartered tobacco crop to suppliers.
- Enforcing fraud control and preventing infraction, i.e., the import of foreign smuggled tobacco products.
- Automating the import and export activities as well as sales and customs affairs.

The tasks that were not implemented by the **Commercial Secretariat General** are:

- The purchase of a truck which will be defined by a feasibility study in process.
- The establishment of a communication network between sales centers located in Ghazieh, Tripoli, and Hadath headquarter in order to ensure the proper and quick delivery of tobacco products and to monitor the daily operations through direct control and supervision.
- The purchase of two vehicles to control smuggling, instead of six vehicles needed to cover the operations all over the Lebanese territories.
- The approval of a new hierarchical structure that would comprise guardians, a president, and a vice president for the smuggling control squad, knowing that these members were ranked in different categories before.

With respect to the **Technical Secretariat General**, the tasks that were implemented in various directorates and departments were specified in a separate report mentioning the reasons that prevented accomplishment of some of them. This report is not currently available.

With respect to the **Financial Secretariat General**, the following tasks were implemented:

- The completion of investment accounts for 1994.
- The adoption of a new accounting system in the Regie administration.
- The automation of the accounting operations for better control and accuracy.
- The provision of computers and office machinery to all directorates.
- The preparation of the 1996 annual budget.
- The provision of health insurance to all employees.
- The agreement over a contract between the Regie and certain hospitals regarding medical fees.
- The automation and centralization of personnel and social services operations.
- The transfer of 23.5 million dollars in 1995 to the Ministry of Finance.

### **3.4.4 PERFORMANCE MONITORING AND IMPROVEMENT**

An evaluation system was set in 1979, to evaluate the performance of the Regie staff. This system defines the rating criteria as a guidance for division and subdivision heads. The relevant division heads evaluate the Regie employees using the Performance Evaluation Report (see Fig. 3.4.4-1). The head of division checks the ratings provided by the subdivision heads. If they agree with the rating, points are given as indicated on the Performance Evaluation Report.

If the division heads disagree with (one of) the ratings or the suggested development activities, they discuss the issue with the concerned subdivision heads. Then they decide to change the recommendations and/or ratings accordingly and make their comments on the form.

The completed evaluation forms will then be transferred to the Personnel Affairs Department in order to decide which staff member deserves promotion. The result of the promotions are declared annually in January.

No performance evaluation has been conducted since 1975, because of the lack of proper communication channels and the unavailability of adequate equipment that affect the performance of the Regie staff.

Performance appraisal grading system is described as follows:

- "Weak" ranging between 1 and 30 points
- "Below Average" ranging between 31 and 50 points
- "Average" ranging between 51 and 70 points
- "Good" ranging between 71 and 90 points
- "Excellent" ranging between 91 and 100 points

The performance appraisal system covers all the Regie personnel rating from A (lowest level) to H (highest level). The Regie personnel system is classified in two broad categories: staff and line.

The Regie performance appraisal system for the staff is divided into 4 rating levels: "Excellent", "Good", "Average", and "Below average".

For the line, it consists of 5 rating levels: "Excellent", "Good", "Average", "Below Average", and "Weak".

The Performance Appraisal Committee reviews letters of suggestions and complaints and levy comments to the General Director.

The performance appraisal procedure is meant to be introduced in the Regie for staff development and promotion between grades within the same

category. This promotion is indispensable for the Regie staff since it encourages them to achieve better productivity and output. Although performance appraisal takes place twice a year, promotion to the next grade is effected after staying at least one year in the previous grade.

Article 7 of the Regie internal system states that the category of periodic level is identified according to the employee grade.

As far as the staff category is concerned:

- Level 1 begins from promoting the employee who had been classified as "Average".
- Level 2 begins from promoting the employee who had been classified as "Good".
- Level 3 begins from promoting the employee who had been classified as "Excellent".

As far as the line category is concerned:

- Level 1 begins from promoting the employee who had been classified as "Weak".
- Level 2 begins from promoting the employee who had been classified as "Below Average".
- Level 3 begins from promoting the employee who had been classified as "Average".
- Level 4 begins from promoting the employee who had been classified as "Good".
- Level 5 begins from promoting the employee who had been classified as "Excellent" and obtained more than 95 points.

Members of the Syndicate Council who are elected for syndicate work are appraised according to their precedent performance evaluation. Such members remain in their position as far as they are members in the Syndicate Council. The staff who are not part of this council are evaluated according to the Regie Performance Appraisal Report.

The employees who are continuously absent for a period ranging between one to three months, are not evaluated unless they present a medical report.

In addition, Article 8 states that during the past two years, if the employees have had a bad evaluation, ranging between "Below Average" and "Weak", the following steps will be followed:

- Delay their promotion for six months.
- After six months, if the performance is improved, a re-evaluation is carried out.
- If no improvement is noticed, the employees are transferred to the Appraisal Performance Committee for final review and re-evaluation. In this case, the committee either dismisses the employees or demotes them.

- If the employees do not show any improvement in their performance for two consecutive years, their service is terminated.
- The employees are not entitled to any promotions unless they have completed exactly two years and achieved an outstanding performance.

The following has to be mentioned with the Performance Appraisal Report:

- The performance appraisal date conducted by the division or subdivision heads.
- The identification of the category of periodic level as stated in Article 7.
- The exceptional compensation is not paid to any employee unless he has achieved a good or outstanding performance during the year.
- The employee is not promoted or assigned any responsibility unless he has completed a good work during the past two years.

Article 10 stipulates that promotions and compensations are annually allocated in January through a memo. This memo includes the names of all those whose promotion is delayed, and all those eligible for promotion, but did not meet the standard requirements.

Concerning complaints, Article 11 stipulates that the employee is entitled to appeal to the Performance Appraisal Committee within a twenty-day notification period otherwise all her rights are disregarded.

The employee has the right to present his case to the Personnel Affairs Department when he is informed officially. This department then transfers his case to the appropriate committee after 20 days.

In order to accomplish its mission, the Performance Appraisal Committee reviews the whole file relevant to the employee's case and then takes its final decision within 2 months, subject to the General Director approval.

The committee should inform the Personnel Affairs Department of its decision in writing.

Article 12 stipulates that:

- As of 1983, the category of periodic grade is identified according to the average points of the Performance Appraisal Report, for the period from 1982 till the due date of this category.
- The category of periodic grade which has not been granted for the employee while implementing this regulation requires a retroactive measure for all periodic categories as from 1/1/79, and his net monthly salary should be corrected accordingly.

**Fig (3.4.4 - 1)**  
**PERFORMANCE EVALUATION REPORT**

EVALUATION ELEMENTS	1	2	3	4	5	GRADE
Quantity of Work Accomplished	Produces more than what is required	Average production	Below average production	Poor production	Very poor production	
Quality of work accomplished	Very satisfactory work	Satisfactory with minor mistakes	Satisfactory with occasional mistakes	Unsatisfactory with frequent mistakes	Work not satisfactory at all	
Work relationships	Very cooperative & communicates with all employees	Cooperates only with supervisors & colleagues	Cooperate only with supervisors	No cooperation with supervisors	Not in harmony with everyone	
Adherence to Office Hours	Full adherence to office hours	Most office hours are used properly	More than half office hours are used properly	Less than half office hours are used properly	Poor productivity during working hours	
Ingenuity & Judgment	Full control of assigned tasks without supervision	Requires some assistance and guidance	Requires assistance and guidance most of the time	Requires consistent assistance	Unreliable to perform assigned tasks alone	
Attendance	Full attendance and justified absence	Absenteeism or delay with acceptable excuse	Late justification of absenteeism or delays	Careless in justifying absences and delays	Always receives disciplinary actions for his absence	
<b>TOTAL</b>						

Supervisor:      Head of Section                      Head of Bureau                      Head of Department                      Manager

Signature:



- The category of periodic grade is granted to all those who had retired at the end of 1982 in accordance with the average points for their performance appraisal that had preceded retirement date, and their salary corrected as stated in the above paragraph.

## EXECUTIVE SUMMARY

## **1. EXECUTIVE SUMMARY**

Regie's main operations, as legally endorsed by the monopoly status granted by the Lebanese government, can be viewed as comprising three main business areas:

- 1- Distributing licenses of all tobacco and tobac products (**The Trading Business**).
- 2- Licensing and subsidized purchasing of Lebanese tobacco and tobac crop (**The Crop Purchasing Business**).
- 3- Manufacturing domestic tobacco and tobac products (**The Manufacturing Business**).

This section presents a summary of the major findings of the AUDIT report for the Restructuring of the Regie study.

### **1.1 THE LEGAL STATUS**

The Lebanese Tobacco and Tombac Monopoly (Regie) was founded on 30/1/1935 as per Decree No.16 issued by the French High Commissioner mandate. This decree regulated the monopoly of growing, manufacturing, marketing, and transportation of Tobacco & Tombac and their derivatives of the entire Lebanese and Syrian territories.

On the basis of this decree, the French High Commissioner issued, on the same date, a tender document relating to the monopoly of the Tobacco & Tombac industry, empowering the utilization of the monopoly to a mutual interest management, as the monopoliser for a period of 25 years expiring on 31/12/1960.

In the implementation of provision No. 11 of the tender document, an anonymous company was established called "The Anonymous Company of Mutual Interest for the Monopoly of Tobacco and Tombac in Syria and Lebanon", with a paid capital of 1.250 Million Lebanese Pounds. This capital was later increased to 1.375 Million Lebanese Pounds.

When the economic segregation between Syria and Lebanon took place in 1950, the monopoly was divided between the two countries with its assets and employees redistributed between the respective independent public sector management of each country. This segregation was followed by reorganization of the two management's in order to become more compatible with the new status. Subsequently, the supervision board of the Lebanese monopoly was changed, becoming directly linked to the Lebanese Ministry of Finance in compliance with Legislative Decree No.3 issued on 24/3/1950. On 12/6/1959, Legislative Decree No. 151 was issued allowing the government to monitor the

management of the monopoly in a clear and detailed manner. This defined the function of the monitoring staff in the Ministry of Finance; from the Minister to the Director General including the government representative and the managerial auditor.

With the expiration of the franchise on 31/12/1960, and in implementing Article 22 of the tender document based on monopoly law, the entire assets of the company were transferred to the Lebanese state without conditions, and concurrently the government bore all liabilities. Meanwhile the company's shares had no nominal value after their gradual depreciation starting from the company establishment and ending on the expiration of the franchise. This is notwithstanding that the company paid 5% interest per annum to the holders of those shares that had not been depreciated fully by the expiration of the franchise.

By the expiration of this franchise on 31/12/1960, the state was unable to formulate a legal structure for the monopoly. In the face of this vacuum, the state had to request that the outgoing company continues to run the monopoly on a temporary basis. This temporary measure lasted until 27/5/1964 when the state extended the franchise until 31/12/1973 in accordance with Decree No. 16693 - on the understanding that the relationship between the state and the managing company was to be reorganized on the basis of a new adhoc tender document. The state continued to re-appoint the same managing company after 1973 to run the monopoly by periodical decrees issued by the Council of Ministers until the end of 1984, after which the company continued to function in managing the monopoly by default until 1991.

The Council of Ministers decided on 28/11/1991 (Decree No.59/8) to terminate the services of the managing company and appoint a 6 member committee to run the monopoly in accordance with the prevailing rules and regulations. The Council later decided on 14/7/1992 (Decree No. 5/10) to replace the six-member committee with a three-member committee, all of its members being recruited from the employees of the monopoly. On 27/2/1993 (Decree 22/31) a general manager was appointed in addition to the 3 member committee and this appointment gave the right to the General Manager to exercise all the functions that are specified for general managers in the public sector, in harmony with the functions of the temporary 3 member committee until such a time that a final law could be formulated for the company.

The Regie is currently owned by the Lebanese State and has been granted a monopoly on the manufacture, distribution, and importation of tobacco. The Regie monopoly is managed in a private fashion, its employees are not civil servants and are registered with the National Social Security Fund. In addition, the Regie employees have formed their own union. The tender document 16 RL (Cahier de Charge 1935) defines the relationship between the company and the

state. This document specifies the organizational structure and function of the Regie as well as its operations. The company is under the tutelage of the Minister of Finance. All personnel and financial aspects are subject to the authority of this Ministry.

The Regie employees are still considered, despite the recuperation of the Regie Administration by the Ministry of Finance, having an hybrid legal situation, giving them the right to benefit from the increments given to the private sector with all the benefits of their specific regulations.

## **1.2 MARKET STATUS**

From the economic perspective, Regie is considered as one of the largest companies in Lebanon. Those who benefit and are related to the Regie (farmers, tobacco sales agents, and Regie employees) are estimated at over 60,000 persons supporting between 400,000 and 500,000 people. The Regie business also constitutes a vital financial source to the Treasury Department.

### **The Trading Business**

The current distribution network includes 22,889 licensed tobacconists. Annual renewal of licenses is mandatory. Application for new licenses remains open. According to Regie executives, there is a need for legislation to monitor the observation of licensing conditions. With respect to wholesale licensing, Lebanon was divided into geographical regions each having one wholesale agent. The larger cities have Regie distribution centers from which they could replenish their stock. The geographical allocation of wholesale distribution was annulled in 1993, and since then application for wholesale licenses became open to anyone able to pay the \$10,000 registration fee. Currently, there are around 485 active wholesale agents. Licensees pay \$400 per year to the Treasury for the renewal of their licenses.

According to the legal state of the monopoly, tobacco products pricing policy regulations are driven by a proposed change in the price by Regie, on the basis of continuously monitored market sensibilities, followed by the issuance of government decrees. The current practice however eliminates the role of the Regie leaving it for the Minister of Finance to adapt, or update, input variables in the established pricing formulas as economic and market circumstances dictate, instead of annually issuing a new decree.

The major problem facing Regie has been smuggling, which was particularly dominant during the Civil War period until the early 1990s. This situation continued until the last quarter of 1992, when the Regie Anti-Smuggling Squad was partially reassembled.

Since the curtailing of illegal seaports and the restoration of peace in Lebanon, smuggling has been controlled although not totally eliminated, since new routes and outlets have been active in a limited manner.

In terms of its cigarette brand portfolio, the Regie currently holds one brand, namely the CEDARS. The bulk of demand for local cigarette brands is realized in the Bekaa, Southern Lebanon and Akkar, where smokers are less exposed to advertisement of foreign cigarette brands than smokers in other parts of Lebanon.

The capability of the Regie to respond to the local demand on national cigarette brands was hampered by the destruction and theft inflicted on its main production facilities in the Hadath center during the Civil War period (1975 to 1984). This resulted in the absence of national brands from the market for a considerably long period of time which was sufficient enough to make traditional consumers switch to imported brands, and for new consumers to be introduced to these products. Sales of domestic cigarette brands peaked in 1974 accounting for around 41% of total sales. In 1976, sales of local brands were nil, due to the imposed complete stoppage of production caused by the deteriorated security situation. During the period 1977 to 1979, the local brands sales declined rapidly reaching the 9% share of the market in 1979, for the reasons mentioned earlier, giving way to imported or smuggled brands.

Smuggling inward to Lebanon continued until the last quarter of 1992. Current estimates of the total market share of the outward smuggled cigarettes vary from 50% to 70%. The eventual consumption of the smuggled cigarettes however is not exactly known, since the exact share per destination can not be traced geographically. According to Regie market intelligence, if prices were to be raised two to three folds, smuggling could revert again inward.

The 1995 sales figures for tobac show that sales of imported tobac accounted for 55.15% of the total tobac sales, while the locally produced tobac made up 44.85 % of the total tobac sales. According to Regie executives, there is a lucrative international market for tobac. Due to the absence of financial support however, no market studies have been conducted to produce reliable export market estimates.

The remaining products that constitute the Lebanese market are cigars and pipe tobacco, these products are all imported.

### **The Crop Purchasing Business**

Tobacco cultivation in Lebanon was a prosperous undertaking until 1975 when the cultivated area reached around 72,875 donums, and tobacco output reached 8,500 tons by 1971. In the intervening years, due to the socio-political turmoil

the nation experienced, levels of output fluctuated drastically, decreasing to 300 tons by 1985. In the post-war period (1991-onwards), cultivation recovered to reach 81,659 donums with an output of 8,207 tons by 1995.

From the socio-political perspective, the position of Regie is increasingly becoming critical. Among the many subsidized crops (including wheat, sugar beat, silk, and olive), tobacco cultivation has helped in keeping farmers on their land, especially in the South, instead of migrating to the cities, as well as promoting the replacement of illicit crops.

As such, the difference between the international market price and the actual purchase price of the tobacco crop is bore by the government in the form of a state subsidy in accordance with its above mentioned two-fold commitment.

Tobacco is currently bought from Lebanese growers at the regionally high price of around 8,500LL per kg (over \$5 at the average exchange rate in 1996), and bartered (after sorting and quality grading) at the average price of \$0.65 per kg (around only 1,000LL). Tombac is purchased at the average rates of 4,000LL and 16,000LL per kg of poor and high quality respectively.

According to 1995 statistics, around 70-80% of tobacco cultivation activities are in the South of Lebanon. The remaining 20-30% in the Bekaa Valley, while Tombac cultivation takes place, predominantly, in the North.

Tombac, which is a variant of the tobacco plant characterized by a special flavor and used for smoking hubble-bubble, is also cultivated in Northern Lebanon. The Northern city of Tripoli is the Regie center for sorting, manufacturing, warehousing, and distributing operations of tombac.

### **1.3 TECHNICAL STATUS**

#### **The Manufacturing Business**

While locally manufactured cigarettes play a minor role in the tobacco market in Lebanon (less than 2 percent), Regie executives insist that the manufacturing business can be revived and gain a higher market share. Indeed, the local cigarette industry experienced a considerable period of prosperity prior to the Civil War. The number of produced boxes dropped to 3,000 boxes per month after being 20,000 per month during the Civil War. Orders from Arab and East European countries are ignored due to the lack of investment in the modernization of manufacturing equipment and machinery. This is in addition to the urgent need to upgrade managerial expertise and technical skills.

In view of this aggravated situation, domestic production levels have plummeted to around 2 percent of the total tobacco and tombac sales of the

Regie, down from 53 percent in 1974. However, the management has not been idle. Several feasibility studies were conducted to improve productivity and regain portions of the market lost to imported products. Conclusions and recommendations were addressed to the Ministry of Finance. They included a review of the formula currently used for production of the local cigarettes, the introduction of new varieties of cigarettes, the recruitment of qualified staff and technicians, and the rehabilitation of production facilities. The increase in production capacity will, in addition to the direct benefits foreseen at the Regie level, increase the demand for local crops and create new employment opportunities in Lebanon.

As to the leaf growing operation, the 21,000 tobacco and tobac growers are intimately dependent on Regie for their livelihood. On the other hand, from a purely economic point of view, Regie itself can fully proceed with its activities and even increase its profitability without purchasing locally grown raw products which are highly subsidized.

#### **1.4 MANAGEMENT STATUS**

On the Managerial side, Regie is currently under the tutelage of the Minister of Finance. Its organizational structure, which is defined by Decision No.309 /1 dated May 23, 1979, consists of: The General Manager, the Government Commissioner, a Coordination Directorate, four General Secretariats.

The Four General Secretariats are headed by the General Manager. Each Secretariat General is divided into several Directorates. The Directorates are in turn subdivided into several Departments.

No performance evaluation has been conducted since 1975, because of the lack of proper communication channels and the unavailability of adequate equipment that affect the performance of the Regie staff. The performance appraisal procedure is meant to be introduced in the Regie for staff development and promotion between grades within the same category. This promotion is indispensable for the Regie staff since it encourages them to achieve better productivity and output.

Regie needs reorganization whereby job descriptions have to be designed to suit its objectives and functional statements; and general procedures have to be developed for staff arranging ways of workings, personnel matters etc.

Eventually, job descriptions will serve as a reference for job performance evaluation and subsequent upgrading or functional promotion. A staff development and training policy should be made to include performance appraisal and subsequent educational and training activities. Adoption of the principles of management by objectives should help maintain a high degree of



flexibility when utilizing the job descriptions as a dynamic tool of management to reach an effective and efficient organization for Regie.

In parallel with the reorganization effort, Regie needs to develop its own strategic plan that defines objectives and programs that are compatible with the national plans. The plan should specify how the objectives are going to be achieved, the time schedule and the resources needed. The strategic plans should be translated into action plans for the directorates in Regie to help guide their efforts towards achieving the Regie goals. This will help strengthen the principles of management by objectives and accountability. Apart from structuring the Regie by organization charts and job descriptions, it should be emphasized that its functioning is greatly enhanced by effective systems, procedures and mechanisms.

### 1.5 HUMAN RESOURCES STATUS

On the Human resource side, the Regie total established cadre is divided into three groups: Production Staff, Middle Management, and Top Management.

The actual established cadre of the Regie is 1746 employees. The current occupied positions are 1,696 compared to 5000 in 1975. An average of 100 staff members retire annually.

The average age of all the Regie employees is 56 years; this is a very high average suggesting the need to recruit a younger work force soon to have the opportunity to learn from the retiring staff.

The Regie employees are geographically distributed among the various sites as follows: At the Hadath Headquarters and cigarette plant, there are 922 employees. This number represents 54.36% of the total Regie cadre, whereas in the South, there are 368 employees representing 22%, and 380 employees in the North representing 21.70%. Finally the Bekaa office has only 26 employees covering 1.53% of the total Regie cadre.

The Regie staff is distributed into technical and administrative. The technical includes all employees concerned with agricultural and productive issues which represent the core of the business, and the administrative includes all employees concerned with financial, administrative, and commercial issues representing the remaining 23% of the total cadre. The latter, covering 396 employees, supports the Regie operations. The ratio of administrative to technical staff is approximately 1 to 3.

The Regie has only one maintenance engineer with formal training. The rest of the maintenance crew has acquired its experience at the plant. This constitutes a major technical problem since he is the only on-site qualified technician to deal

with any mechanical issues/problems. Also, the Regie has an on-site medical unit that is constituted of two 75-year-old doctors working on a contractual agreement. In this respect, the administration has requested permission from the Ministry of Finance to replace them with younger doctors. The Regie has five agricultural engineers whose main duty is to observe and improve the quality of the tobacco crop. This is done in collaboration with foreign agricultural consultants in order to evaluate the quality of the crop.

Regie is currently concentrating on managing, operating, and maintaining its production with the available means. The lack of qualified personnel and modern equipment and machinery hinders its operations from being efficient and productive.

The modernization of the working environment requires, in addition to the acquisition of equipment, the training of employees to operate the new machinery.

Regie possesses the financial resources to acquire some of the equipment it needs such as computers, office equipment, and production machines. However, the strict control exercised by the Ministry of Finance over Regie reduces its autonomy and hinders its ability to equip itself.

## **1.6 FINANCIAL STATUS**

The financial audit of Regie is different from the management, technical, and human resources audits because monetary figures are affected by the macro economic conditions of the Lebanese economy. During the Civil War years, inflation drastically increased, but Regie accountants didn't adjust their financial data accordingly. For example, all Non-Monetary items (Fixed Assets, Long-term Liabilities and Equities) have been annually carried forward since 1975 without considering the severe devaluation of the local currency. As such Non-Monetary items have been converted from L.L. into USD on a periodical basis. The conversion of 1995 Equities (Capital and Retained Earnings/Losses) have been prepared separately by using corresponding end of year USD rates. The result revealed gross variation, showing a negative difference of around USD 290 million between the presented balance sheet equities and the factual amounts.

To this effect, there have been similar observations such as losses setting-off accounts when considering the implicit gains generated from accruing taxes due to the Government, and from the re-evaluation of historical values of the Regie Fixed Assets that were estimated at \$120 million.

## **Financial Statements**

The following analysis has been applied to the unaudited financial figures of the Regie.

### **a- Balance Sheets**

As previously mentioned, the implicit gains are extensive, as the Regie is accruing liabilities (Taxes) in L.L. and carrying the balances forward over a long period of time. Information is not available to identify when the balances were carried over, although Accumulated Retained Losses in the 1995 Balance Sheet start with a balance in 1975, and thus is taking advantage of the severe devaluation of L.L. to decrease its long-term liabilities. Except Refundables from the Government mentioned in payables above, other receivables of Regie (44%) are current.

### **b- Income Statements**

As far as conversion rates are concerned, Income Statements were treated as Balance Sheets with a main difference that Income Statements are short term by their intrinsic nature, i.e., for one year. Therefore, they are more reliable in this sense, as they reflect the actual income and expenditures of the relevant periods irrespective of the currency used.

It is importantly notable that 1995 is the first year since 1975, the Regie did attain profits. The reasons we believe are:

- a- Serious leaning towards a cost-free operational activity i.e., selling imported goods instead of relying on low quality production with inconsistent levels of output.
- b- Extending markets to neighboring regions.
- c- A tight control over smuggling.

## **Sources and Applications of Funds**

The methodology used in this statement, traces the difference between end of year balances of 1994 and those of 1995, allocating these differences to either **Source** or **Application**.

The 1994/95 statement shows that the bulk of funds (84%) were sourced by increasing current liabilities. Other sources were 11% from reduction in cash holdings and 5% from other sources.

Funds were applied to purchasing inventories (37%), increasing receivables (41%), purchasing Treasury Bonds (20%), and others (2%). Ninety-five percent (95%) of funds sourced from Working Capital were applied to same, i.e., no

long sources were applied to short term liabilities or vice versa, matter of which has kept the Regie in good liquidity shape, as was revealed by its Liquidity Ratio which was almost 1 to 1.

#### **Cash Flow**

The cash flow statement starts with the net generated income and then restores the non-cash deductions and the changes in the working capital, and finally deducts payments incurred after Gross Operating Surplus, such as interests and taxes. Adding the opening balance of cash to the result of the above process, will give the ending balance of cash carried forward to the next period.

الجمهورية اللبنانية  
مكتب وزير الدولة لشؤون التنمية الإدارية  
مركز مشاريع ودراسات القطاع العام

Republic of Lebanon  
Office of the Minister of State for Administrative Reform  
Center for Public Sector Projects and Studies  
(C.P.S.P.S.)