

MODEL GUIDE

PROCEDURES FOR THE CONTROL OF PRECURSOR CHEMICALS FOR ILLICIT DRUGS IN FREE ZONES

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BACKGROUND

At the last meeting of the Group of Experts on Chemical Substances, held in Buenos Aires, Argentina, August 22-24, 2006, countries were assigned action plans. Chile was asked to propose a Guide for Control of Chemical Substances in Free Zones.

Chile's experience with the development of free zones dates from 1975, in the city of Iquique, and in 1977 when the free zone system became operational in Punta Arenas (the country's southernmost city). The government at the time recognized that the region needed special exemptions given its geographic location that made the cost of living in that remote area one of the highest in the country.

We will use the Iquique free zone as a model for our proposal, because it has an administration (sociedad administradora), unlike the Punta Arenas free zone, which is a corporation (sociedad limitada) operating with a concession that comes up for competitive renewal every 23 years

The Iquique Free Zone (ZOFRI S.A.) is located in northern Chile, near the borders of Peru and Bolivia. Its Pacific Ocean port is surrounded by desert. In 1975, when the free zone was established, the city had a population of 73,000. Today it has 200,000, so in thirty years its population has nearly tripled. This has brought sustainable economic growth because the free zone provides an engine of development and the commercial structure.

The Iquique Free Zone (ZOFRI), is a business center covering more than 200 hectares, with intensive wholesale trading and industry. There is also a retail mall.

In this business center there are more than 1,650 companies, whose annual purchases and sales are on the order of \$4.7 billion.

One advantage of the free zone is that it is tax-free and duty-free. This means that goods deposited in the free zone do not pay taxes or customs duties as long as they are in that system.

I.- DRAFT REGULATIONS

INTRODUCTION

Control of diversion of chemical substances is a proactive, direct strategy of each state to deny drug traffickers the chemical inputs needed to manufacture illicit drugs. This includes regulation of the legal trade of chemicals needed for making drugs, to ensure that the only transactions permitted are those for legitimate use, thus preventing diversion of chemicals for drug production from the legal market to the manufacture of illicit drugs

Each country has designed effective mechanisms to control international trade. By and large each state has respected the Vienna convention of 1988 on multilateral communication concerning the transfer of chemical substances.

OBJECTIVE

This Model Guide establishes a framework that can be followed in each country's legislation for the control of monitored chemical products in areas known as free zones.

The guide is applicable to any country that has free zones that handle international or domestic trade in internationally controlled chemical products for drug manufacture.

II.- CHARACTERISTICS

Each free zone may freely admit different types of merchandise except firearms, their components and parts, ammunition, and other items that threaten the morals, decency, health, vegetable or animal sanitation, or national security. This must be covered in a special provision.

The main characteristic of free zones is the existence of a set of companies that trade in goods and services and an administration whose principal role is to create the necessary conditions and infrastructure for the market's efficient operation.

There must also be participation by monitoring entities such as the internal revenue service, customs, health services, and registries of controlled chemical substances. Others needed are banks, insurance companies, transportation companies, freight forwarders, port companies, etc. Judicial and police agencies intervene as required, and the security of the area is under the responsibility of the free zone administration.

Regardless of who administers the free zone, state or private entity, it must establish the necessary regulations for inspection and control by the appropriate authorities. These internal regulations should include physical and electronic detection mechanisms for the control of the movement of precursor chemicals inside and outside the free zone.

All goods that remain in the free zone are exempt from duties, taxes, fees, and other charges, unlike those that are imported under the country's general system for foreign trade, because they are considered as being abroad. It is the concept of customs extraterritoriality.

All users of the free zone system, whatever their type, are subject to the rule of law of the country in which the zone is located.

III.- PROCEDURES FOR ENTRY AND EXIT OF CONTROLLED CHEMICAL SUBSTANCES IN THE FREE ZONE.-

All free zone users that wish to transfer a controlled chemical substance by any means (convey, re-expedite, sell in the free zone extension, etc.), shall meet the following criteria:

- Be a user of the free zone, and comply with the internal regulations established by each administration;
- Be listed in the REGISTER FOR CONTROL OF CHEMICAL SUBSTANCES, that each state must have;
- Follow the rules for management of dangerous chemical substances;
- Process customs documents for the merchandise, and certificates;
- Identification of chemical substances in the documents shall be done with the WCO nomenclature, using the Harmonized System, with at least eight digits of the tariff code and specific descriptors. This is the first warning of a controlled chemical substance.

IV.- DOCUMENTS.

To identify the flow of controlled chemical substances there should be a documentation system for the free zone that reflects movements of the goods as ordered by the owners or consignees.

1.- Document for goods that enter the free zone

Free Zone Entry Document. Merchandise from foreign, domestic, or nationalized sources that enters the free zone, shall be identified in a customs document. This document must show:

- Merchandise –Controlled Chemical Substances - (S.Q.C.)
- Quantities
- Unit of measure
- Weight
- Condition
- Indication of hazard and handling
- Type of packing
- Customs code with specific descriptors
- Name of user and number of national identity document
- Accreditation of user in Controlled Chemical Substances Register
- Address
- CIF value
- Origin (manufacturer)
- Procurement (seller)
- Place and physical location where goods are deposited (warehouse)

in the free zone.

2.- Documents used in the sale of foreign merchandise from the free zone

This documentation releases the user's inventory and is an effective tool for physical control of merchandise by customs for enforcement of current regulations to prevent the diversion of precursor chemicals, which are considered "merchandise" for legal purposes.

2.1.- Entry document (importation) is the document on which foreign merchandise is consigned for use and consumption in the country; it means that all duties, taxes, and other fees have been paid and it is at the free disposal of its owners anywhere in the country.

2.2.- Exit document (international) is the document with which the user sends foreign merchandise abroad or to another free zone tax free

2.3.- Bill of sale to the extension of the free zone is the document with which the user makes sales from the free zone to national territory adjacent to a walled free zone.

2.4.- Inter-user bill of sale is the document by which free zone users conduct transactions among themselves. The merchandise is kept in the system, but with a new consignee.

V.-GENERAL RECOMMENDATIONS

- 1.** Keep continuous control of the logistics chain, with electronic and physical warnings;
- 2.** Supervise and monitor the inventory stock of each user of controlled chemical substances, with audits as prescribed in each state's regulations for the management of precursors.
- 3.** That the CICAD member states propose to the World Customs Organization (WCO) that the controlled chemical substances in Tables I and II be assigned eight-digit customs codes in the Harmonized System.
- 4.** That each state adapt these recommendations according to its respective legislation.

VI.- GLOSSARY

- **Harmonized System for Description and Codification of Merchandise:** is a multipurpose tool with six digits for identifying and classifying merchandise. It is organized by sections, chapters, headings, and the corresponding numeric codes. It also has notes on the sections, chapters, and headings, and General Rules for its interpretation.

- **Descriptors:** are elements that make it possible to verify information on the price and/or value of merchandise, taking into account the characteristics of the product in international trade, e.g.: brand, model, type, kind, variety, packaging, container capacity, etc.

- **Free zone:** is the area or part of a clearly delineated territory in the vicinity of a port or airport that is recognized as having customs extraterritoriality. Merchandise can be stored, transformed, finished, or sold in these areas without any restrictions.

The concept of free zone applies primarily to a physical place for movement of duty-free and tax-free merchandise.

Free zones must establish an administration mechanism for their area by means of a concession contract. It is recommended that the governments enact legislation with rules and regulations for activities in the free zone. This way the regulations will have legal force in each state. It is recommended that an administrative entity be created for each free zone to assume responsibility for security of the premises, coordination, and providing of information to the control agencies. It is important that the monitoring organs have access to each user's inventory stocks.

- **Controlled chemical substances:** are all those chemical substances that can be used in the illicit manufacture of drugs.

- **Regulations for the Registry:** the legal provisions governing the registry.

- **Registry:** is the government entity in each state that is responsible for controlling and supervising the manufacture, preparation, transformation, storage, importation, exportation, sales, transportation, and any other activity related to controlled chemical substances by individuals or corporations that, as users of said substances, utilize them in the production, manufacture, and/or preparation of products or goods for legal use.

- **User:** is an individual or corporation who has signed an agreement with the administering agency for the right to carry out activities in the free zone that the agency administers. User companies can engage in commercial and industrial activities and sell wholesale or retail.

- **Transfer:** is the operation of buying and selling between users of merchandise deposited in the free zone.

- **General system:** a foreign trade transaction that results in the nationalization of imported goods.

- **Fees:** a levy for the voluntary use of public services, e.g., tolls, airport taxes, and storage fees.

- **Taxes:** amounts that must be paid without consideration based on business, acts, or facts that patently reveal the taxpayer's income level. They are important because they account for the major share of public revenue.

- **Customs or ad valorem duties:** a percentage calculated on the CIF value of goods to be nationalized; part of the taxable base.

- **Extension of the free zone:** national territory adjacent to a free zone, which is clearly demarcated. Here merchandise can be consumed duty-free, with payment only of the VAT (value added tax).