



17th St. & Constitution Avenue N.W.
Washington, D.C. 20006
United States of America

INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION

CICAD

Organization of American States

P. 202.458.3000
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Secretariat for Multidimensional Security

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FINAL REPORT
GROUP OF EXPERTS ON MARITIME NARCOTRAFFICKING



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**GROUP OF EXPERTS ON
MARITIME NARCOTRAFFICKING
July 27, 2009
Viña del Mar, Chile**

**OEA/Ser.L/XIV.4
July 20-24
Original: English**

FINAL REPORT

Executive Summary

During its forty-fourth regular session (November 19-21, 2008) in Santiago, Chile, the Inter-American Drug Abuse Control Commission (CICAD) directed the Group of Experts on Maritime Narcotrafficking to meet in 2009. In doing so the Group was directed to execute the plan of action that the Commission approved at that time and report back during its forty-sixth regular session.

The Group of Experts met in the Hotel San Martin in Viña del Mar, Chile from July 20 to 24, 2009. Rear Admiral Juan Pablo Heusser chaired this meeting, which included approximately 55 participants from 17 member states (Argentina, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, El Salvador, Dominican Republic, Guyana, Haiti, Mexico, Panama, Peru, United States and Venezuela).

The Group worked on the tasks found in the plan of action presented at the Commission's forty-fourth regular session. A copy of the schedule of activities for the meeting is attached (Annex I)

The Group of Experts offers the following priority recommendations for the Commission's consideration:

1. That the Commission:
 - **accept** the following reference tools (copies attached) and direct the Executive Secretariat to post them on the CICAD web page:
 - **Effective Systemic Control of Chemical Cargoes Shipped Through Ports in Order to Prevent their Illicit Diversion**
 - **Guidelines for Strengthening Control of Containers Best Practices to Increase Security in Free Trade Zones in Ports and Tax Free Ports**
 - **Guide for the Control or Regulation of Companies that Build, Repair or Remodel Boats or Motors/Engines**
 - **direct** the Group of Experts to continue its work on the issues initiated for consideration and to be finalized at the next meeting
 - **accept** the proposed plan of action for the Group of Experts
 - **direct** the Group of Experts to meet during 2010 and implement the plan as proposed, allowing for the consideration of new or emerging issues

I. BACKGROUND

Admiral Hernando Wills Vélez, Commander of the Colombia Coast Guard chaired the meeting of CICAD's Group of Experts on Maritime Narcotrafficking in Cartagena, Colombia from August 18 to 22, 2008. The report from this meeting was presented to the Commission during its forty-fourth regular session (November 19-21, 2008) in Santiago, Chile. The Commission approved the report and plan of action, directing the Group to meet in 2009. The Government of Chile offered to chair and host this meeting.

The Group of Experts met in Viña del Mar, Chile from July 20 to 24, 2009. to execute the tasks defined by the approved plan of action.

II. PROCEEDINGS

A. PARTICIPANTS

1. MEMBER STATES OF CICAD

Approximately 55 experts representing 17 member states (Argentina, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, El Salvador, Dominican Republic, Guyana, Haiti, Mexico, Panama, Peru, United States and Venezuela) participated in this meeting.

B. SESSIONS AND ORGANIZATION OF THE MEETING

1. OPENING SESSION

The meeting of the Group of Experts took place at the Hotel San Martine in Viña del Mar from July 20-24. Rear Admiral Juan Pablo Heusser and Maria Teresa Chadwick Pinera President of CONACE and Chair of the Inter-American Drug Abuse Control Commission opened the meeting and offered welcoming remarks to the participants and various guests.

2. WORKING SESSIONS

A. Presentations:

During the meeting, participants delivered a number of presentations on issues related to the control of maritime narcotrafficking.

The delegation of Argentina delivered a presentation on recent counterdrug operations. The presentation highlighted cases involving synthetic drugs found in

a container, the use of "mules" to transport illicit drugs such as cocaine across borders and various cases highlighting other smuggling techniques used.

The delegation of Colombia delivered a presentation on their experiences with submersibles and semi submersibles used to transport illicit drugs and other contraband. According to this presentation the first use of this type of vessel was identified in 1993. Since then there have been 48 events identified during which these vessels were use and many more that were not identified. This mode of transportation presents some serious challenges for interdiction efforts as narcotraffickers scuttle the vessels before authorities can seize control. These vessels have the capacity to carry 5-10 tonnes of cocaine, foe example, and have a range that will take them from Colombia to Mexico or across the Atlantic Ocean to West Africa.

The delegation of Chile delivered two presentations. The first concerned international legislation concerning maritime narcotrafficking. Narcotrafficking presents a threat to the "common good" of society. The "common good" is broadly defined and includes maritime shipping and related activities that have global implications. Legislation related to maritime matters and drug control as well as international treaties and conventions then combine to form the foundation for protecting this aspect of the 'common good". The presentation included an overview of the main conventions and other instruments that form the framework for international control of drugs as well as relevant organizations such as the Organization of American States (OAS), the United Nations and the International Maritime Organization (IMO).

The second presentation focused on the work of Chile's customs department in relation to drug control. Customs in Chile operates within the framework of the various international treaties related to trade and the control of contraband such as illicit drugs as well as domestic legislation in these areas. The national customs programs are defined by the risks and program objectives identified.

Customs uses the risk management model used in New Zealand. This approach relies on a sequence of risk identification, analysis and evaluation leading to appropriate action. Information and intelligence is gathered and shared with other regional points around the world.

In addition to providing an overview of how the Customs department operates, the presentation included a review of specific counterdrug operations.

The presentation by the delegation of Brazil included an overview of its maritime drug control activities including those on the riverine systems. Drug control in Brazil is complicated by the borders with multiple countries and the many riverine

systems that can be used to move illicit drugs and related contraband to North America, West Africa and Europe.

The presentation included an overview of maritime counterdrug programs and activities undertaken by relevant agencies in Brazil. International cooperation with other countries and agencies represent an important element of these activities. Details of specific cases were described to highlight the implementation of these programs.

B. Plenary Discussions:

The Group of Experts on Maritime Narcotrafficking met in plenary session and in smaller working groups to complete the tasks defined by the Group's plan of action contained in the August 2008 report. The Schedule of Activities for the meeting is attached (Annex I). The tasks addressed in plenary included the following:

Model Operating Procedures Manual for joint and combined bilateral or regional interdiction operations (Trinidad and Tobago)

The delegation of Trinidad and Tobago was not able to attend the meeting so the Executive Secretariat presented the revised version of this manual. The current draft reflected the changes that were proposed during the Group's last meeting and builds on discussions during two previous meetings.

The draft represents work from several meetings of the Group. In discussing the draft it was stressed that this is a resource for member states to draw on as they wished. It does not imply any obligation on member states to implement some or all of the provisions. Rather, it serves as a model or best practices that member states might consider as they prepare their own procedures for joint or combined bilateral or regional counterdrug interdiction operations.

Given the potentially sensitive nature of the guide, the Group decided to review the draft paragraph by paragraph. The resultant discussion resulted in an excellent exchange of views and suggestions that allowed the Group to finalize the draft.

Effective systemic control of chemical cargoes shipped through ports, in order to prevent their illicit diversion (Mexico)

This draft guide was presented at the last Group's last meeting and further refined by a working group assigned this task. The delegation of Mexico presented the revised draft for the Group's consideration. The draft generated some discussion and additional suggestions. The delegation suggested that the Group of Experts on Chemical Substances be asked to review section IV of the draft guide, which deals with chemicals. Following some further discussion, the Group finalized and accepted the guide subject to the changes that might come from the other Group of Experts.

Guidelines for Strengthening Control of Containers (Argentina)

Narcotraffickers make extensive use of containers to move illicit drugs and related contraband. The Group has discussed the control of containers during a number of previous meetings. During the Group's last meeting the delegation of Argentina led a working group to develop a guide for member states to use in strengthening their controls over containers moving through their maritime ports. Argentina presented the final draft of this guide for the consideration of the Group of Experts. Participants offered some additional suggestions that the delegation incorporated in the final draft. With these changes the Group finalized the draft.

Best Practices to Increase Security in Free Trade Zones in Ports and Tax Free Ports (Panama)

During the last meeting of the Group of Experts the delegation of Panama led a working group tasked with considering the issue of security in free trade zones in ports and free ports. The working group used an outline prepared by Panama as its point of departure for discussion. The delegation of Panama presented the resultant draft guide for the Group's consideration. The revised draft guide was discussed and additional comments and suggestion submitted to finalize the document.

Guide for the Control or Regulation of Companies that Build, Repair or Remodel Boats or Motors/Engines (Colombia)

The delegation of Colombia presented the draft guide in question. This builds on related discussions and guides that were prepared by the Group in previous meetings concerning the control of vessels used to smuggle illicit drugs. The guide responds to trends that saw the construction of specialized vessels such as semi-submersibles as well as the modification to the structures of existing boats or ships (e.g. attachment of "parasites" or "torpedoes" to the hull) or their engines. The Group finalized the draft presented by the delegation of Mexico.

C. Working Groups:

During the course of the meeting, the Group divided into smaller working groups. In doing so, the working groups considered tasks or issues that originated in the previous meeting and remained to be addressed as well as new issues identified at the beginning of the current meeting. The following is a summary of the activities of the working groups:

Control of Containers

The issue of container control is a broad subject with many aspects. The Group decided to build on the work done to date on this subject with consideration for the draft recently finalized under the leadership provided by the delegation of Argentina.

Once again, the delegation of Argentina offered to lead a working group to prepare an annex to the guide finalized at this meeting. The annex expands on three aspects; mechanisms for information exchange, registry of importers and exporters, record of containers related to illicit activities.

The Control of "Go Fast" Boats

Vessels termed "go fast" boats have been sued extensively by narcotraffickers to move illicit drugs. Able to carry large quantities of illicit drugs, "go fast" boats take advantage of a low profile in the water, speed and difficult detection to move illicit drugs. "Go fast" boats take advantage of an excellent range of travel that is often enhanced by the used of refueling vessels.

A working group was formed under Mexico's leadership to develop a guide on elements that countries need to consider in implementing controls over these vessels. A draft of the proposed guide will be presented when the group next meets.

Control of Narcotrafficking Over Lakes and Riverine Systems

Lake and riverine systems offer an excellent means to move illicit drugs, chemicals and other related contraband. This is particularly useful when these waterways cross or form the border between two or more neighboring countries.

A working group formed under Venezuela's leadership was formed to consider this issue. The proposed guide will look at elements that countries should consider when developing strategies to control the movement of illicit drugs on riverine and lake systems located in border areas. The draft for this guide will be presented at the Group's next meeting to be finalized.

Control of Submersible and Semi-Submersible Vessels

The first report of submersible and semi-submersible vessels being used in maritime narcotrafficking is 1993. Since then these vessels have been increasingly been used to transport illicit drugs. They also have the potential to be used for other illicit purposes.

This issue was partially addressed in the **Guide for the Control or Regulation of Companies that Build, Repair or Remodel Boats or Motors/Engines** finalized at this meeting. In addition to discussions on this guide, the delegation of Colombia delivered a presentation on their experiences with these vessels. Building on the foregoing the Group formed a working group under Colombia's leadership to expand and consider this issue in greater depth to create a guide for countries wishing to develop special controls to deal with these vessels.

Other Issues:

In addition to the foregoing, the Group raised information exchange and new trafficking routes and methods as important issues. Both of these issues have been raised by the Group in previous meetings but do not lend themselves to the type of resources or products generated by the Group. At the same time, participants have exchanged information and shared experiences regarding new routes and smuggling methods in some of the presentations delivered during the meeting.

The Executive Secretariat proposes to explore options to increase opportunities during future meetings for this type of exchange and include this in the schedule of activities for future meetings.

3. PLAN OF ACTION

Further to the discussions in plenary and in the working groups, the Group of Experts has prepared the following plan of action from which the assigned products will be presented when the Group next meets:

Preparation of guides, manuals or other papers associated with the following:

Control of Containers (Argentina)

The Control of "Go Fast" Boats (Colombia/Mexico)

Control of Narcotrafficking Over Lakes and Riverine Systems (Venezuela)

Control of Submersible and Semi-Submersible Vessels (Colombia)

4. CLOSING SESSION

The Group of Experts concluded its work at 12:00 on July 24. The Chair of the Group closed the meeting and thanked the members for their participation. In doing so he stressed the importance of the participants continuing to maintain contact with each other, to exchange information and to work together

III. CONCLUSIONS AND RECOMMENDATIONS OF THE GROUP OF EXPERTS

RECOMMENDATIONS TO CICAD IN ITS FORTY-SIXTH REGULAR SESSION:

1. That the Commission:
 - **accept** the following reference tools (copies attached) and direct the Executive Secretariat to post them on the CICAD web page:
 - **Effective Systemic Control of Chemical Cargoes Shipped Through Ports in Order to Prevent their Illicit Diversion**
 - **Guidelines for Strengthening Control of Containers**
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**GROUP OF EXPERTS ON MARITIME
NARCOTRAFFICKING MEETING**
July 20-24, 2009
Viña del Mar, Chile

CICAD/inf. 2/09
June 15, 2009
Original: English

SCHEDULE OF ACTIVITIES
(draft)

Monday, July 20

- | | |
|----------------------|--|
| 08:30 – 09:00 | Registration |
| 09:00 – 09:30 | Opening Remarks |
| 09:30 – 09:45 | Introduction and Review <ul style="list-style-type: none">• Background of Group• Schedule of work• Proposed work methodology• Review of tasks assigned |
| 09:45 – 10:15 | Introduction of participants and “roundtable”
identification of additional issues of concern |
| 10:15 – 10:30 | Break |
| 10:30– 11:00 | Model Operating Procedures Manual for joint and
combined bilateral or regional interdiction operations
- Trinidad and Tobago |

- | | |
|----------------------|--|
| 11:00– 11:45 | Effective systemic control of chemical cargoes shipped through ports, in order to prevent their illicit diversion |
| | - Brazil and Mexico |
| 11:45– 12:30 | Control of containers |
| | - Argentina |
| 12:30 – 14:00 | Lunch |
| 14:00– 17:00 | Working Groups |
| | - Information exchange |
| | - New trends and routes in maritime narcotrafficking |
| | - Use of “parasites” attached to the hull of ships in which illicit drugs can be hidden |
| | - Control of Ecstasy: passengers on cruise ships |
| | - To be determined based on “roundtable” discussion |
| 19:00 | Welcome Reception (TBD) |

Tuesday, July 21

- | | |
|----------------------|--|
| 09:00 – 09:45 | Presentation by Chile |
| 09:45 – 10:30 | Enhance security in free trade zones in ports and free ports (Panama) |
| 10:30 – 10:45 | Break |
| 10:45 – 11:30 | Control or regulation of companies that repair or remodel boats or motors/engines |
| | - Colombia |
| 11:30 – 13:00 | Working groups (<i>cont.</i>) |
| 13:00 – 14:00 | Lunch |
| 14:00 – 15:30 | Working groups (<i>cont.</i>) |
| 15:30 – 17:00 | Presentations by working groups |

Wednesday, July 22

- | | |
|----------------------|--|
| 09:00 – 09:45 | Presentation by Canada |
| 09:45– 13:00 | Working groups (new tasks) |
| 13:00 – 14:00 | Lunch |
| 14:00 – 17:00 | Special Activities: Visit to the Port of Valparaiso |

Thursday, July 23

- | | |
|----------------------|--------------------------------------|
| 09:00– 13:00 | Working groups (<i>cont.</i>) |
| 13:00 – 14:00 | Lunch |
| 14:00 – 17:00 | Working groups (<i>cont.</i>) |

Friday, July 24

- | | |
|----------------------|---|
| 09:00 – 11:00 | Presentations by working groups |
| 11:00 – 11:15 | Break |
| 11:15 – 12:15 | Conclusions, commitments and recommendations for action by the Working Group |
| 12:15 | Closing |



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REFERENCE GUIDELINES ON BEST PRACTICES AND PROCEDURES FOR EFFECTIVE SYSTEMIC CONTROL OF SHIPMENTS OF CHEMICAL SUBSTANCES TRANSPORTED THROUGH PORTS TO PREVENT THEIR ILLICIT DIVERSION

Viña del Mar, Chile

I. Introduction

The main objective of these guidelines is to guide customs and port officials in connection with the control and oversight of precursor chemicals and substances that may be diverted in ports to the manufacture of narcotic and/or psychotropic substances.

In view of the possibility of diversion of said substances towards illicit markets, it is important for monitoring and control mechanisms to be created that avoid or minimize possibilities for diversion.

Each country will determine the scope of application to the extent of and in accordance with the scope of its legislation in force.

II. Background Legal Frameworks

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna, Austria, on December 20, 1988, known internationally as the Vienna Convention, constitutes the main international legal framework cited as reference in carrying out effective actions against organized crime in its drug trafficking modality. Apart from promoting international cooperation, it recommends the adoption of appropriate measures to prevent the diversion of precursors and other chemical substances that may be used in the illicit manufacture of narcotics and psychotropic substances.

In addition, in April 1990, another important legal framework emerged on the international scene. This was the Model Regulations to Control Precursor Chemicals, Chemical Substances, Machines and Materials, approved by the Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD/OAS) at its seventh regular session, and adopted at the Meeting of Ministers held in Ixtapa, Mexico. As their name indicates, said regulations are aimed at encouraging the OAS member states to exercise control and oversight of chemical inputs used in the illicit preparation of narcotics and psychotropic substances. To that end, they recommend the development of systems for the control of such products, improvement of mechanisms for information exchange between and among control entities, and adoption of provisions to criminalize the irregular marketing of controlled precursor chemicals and substances.

III. Legislation

Lack of a legal instrument enabling measures to be developed and implemented for the control and oversight of the chemical products most frequently used in processing illicit drugs may give rise to an extremely problematic situation for a country, since international recommendations are in place for the exercise of control and oversight of such products.

Legislation should govern the control and oversight of chemical products that may be used in the illicit production of narcotics and psychotropic substances, making possible

the control and oversight of the production, marketing, distribution, and end use of precursor chemicals and other chemical products so as to provide an essential legal basis for the improvement of control mechanisms and the implementation of such new measures as may be considered appropriate in addressing national and international realities.

It is vital for all officials involved to have in-depth knowledge of the legislation governing the control and oversight of chemical products and **related offenses**, together with the list of controlled substances.

IV. Control Mechanisms

Entities should be identified with responsibility for administrative and operational control in connection with activities carried out with chemical products that may be used in preparing narcotics and/or psychotropic substances.

To exercise such control, control mechanisms should be created and documents prepared. In addition, specialized oversight and investigative groups should carry out field activities and make documentary analysis, with a view to preventing and suppressing the diversion of drug trafficking inputs.

Another important element is to identify the countries with which mutual cooperation agreements have been concluded to combat drug trafficking and promote information exchange, and to strengthen international cooperation mechanisms and international entities and organizations that combat the drug phenomenon.

IV.1 Administrative control

A general overview should be obtained based on reliable information that can provide the current situation of such substances in each country, as well as the situation of the country in this area at the international level.

This means gaining an awareness of the origin, use, and/or disposition of chemical substances through information enriched by each country's competent authorities.

It is proposed that each country have a register of authorized companies and identify the importing and exporting companies.

In each country, very close coordination should be effected among the different agencies overseeing precursors and chemical substances.

Activities related to the manufacture, production, processing, packaging, purchase, sale, marketing, acquisition, possession, donation, exchange, transfer, shipment, distribution, import, export, re-export, assignment, use, recycling, lending, reuse, transport, and storage of chemical products that may be intended for the production of drugs and other narcotic substances that lead to physical or psychological dependency should be subject

to control by the entity with responsibility. Such administrative control may be exercised by adopting the following measures:

1. Record-keeping

This is recording information related to the identification of a party concerned who states that he or she carries out an activity involving a chemical product subject to control and oversight. The recorded information required by the control entity may be more complete where corporations that carry out long-term activities are involved, such as production and processing industries and companies importing, exporting, and distributing chemical products. This makes it possible to gain detailed knowledge of activities carried out by each operating entity and, therefore, a general overview of the internal market.

2. Licensing

This is authorizing the party concerned routinely to carry out within the country an activity involving a controlled chemical product. When the records have been approved, the operating entity should have a license, issued by the control entity, so that it can carry out the stated activity, for a given period. The license may be renewed. Evidently, renewal of the license should be conditional upon fulfillment of predetermined legal requirements.

3. External trade authorization

Generally speaking, apart from the license, the party concerned wishing to import or export a controlled chemical product should have specific authorization, except for certain products which, by their nature, origin, or destination area, do not constitute any risk of diversion to illicit markets. Specific external trade authorization will be valid for a single operation, a single product, and a short predetermined period.

4. Temporary authorization

Temporary authorization is permission from the control entity for the party concerned to carry out, on a temporary basis, an activity with a controlled chemical product. It is given when the party concerned or a public institution needs, temporarily, to handle a controlled chemical product. To do so, it should have a specific authorization to perform said activity, for a short predetermined period.

5. Prior notification

This a procedure used to exchange information between competent foreign entities in connection with international control of chemical products that may be intended for illicit drug production. Instituted by the International Narcotics Control Board (INCB), prior notification is a mandatory procedure for all signatories to the Vienna Convention. It consists essentially of communication by the exporting country's control entity with the importing country's control entity, reporting the export of a chemical product listed in

Table I and possibly Table II of said Convention, so that it is known prior to shipment that the operation is legitimate. In fact, countries should adopt prior notification in exporting all controlled chemical products, as CICAD recommends.

It would be important to adopt an internal mechanism for dissemination of information on external trade in precursors and chemical substances among entities with responsibility for the control and oversight thereof.

6. Information system

This is a control mechanism that may be implemented by cross-referencing data and information that is incorporated periodically in a database. Companies and institutions active in the system should send data and information to the control entity regarding the activities they carry out that involve chemical products. The computer system, for example, the NDS, should analyze the consistency of data and information received and, should any discrepancy be detected, generate alerts that might indicate mere administrative irregularity or circumstantial evidence of criminal diversion.

IV .2 Preventive operational control

A need to verify “on-site” the accuracy of the information provided by companies and determine whether possible diversions have occurred that indicate the existence of administrative infractions, strengthening prevention of the diversion of chemical products to illicit markets, which should lead to inspection of the companies’ offices at ports.

IV .3 Suppressive operational control

Another aspect of control that should be exercised is suppressive operational control, implemented as investigation of diversions. If there are indications of the diversion of chemical products towards illicit markets, an investigation should be launched to determine the possible criminal liabilities of those involved.

Such investigations should be undertaken by the police entities with responsibility for control and oversight of chemical substances in connection with the suppression of narcotics.

Investigations of this type requires police officials to have training, specific knowledge of the subject, and appropriate equipment, as the intentional nature must be proven of the act to divert or supply a chemical input for drug production or preparation.

Therefore, police agents working in this type of investigation must establish facts on the basis of evidence, establishing a link between the outcome of the offense and the conduct of the criminal agent seeking such an outcome.

IV.3.1 Investigation of the diversion of chemical products

Effective control of chemical products makes it possible to gain knowledge of facts that may constitute mere administrative irregularity or strong indications of the diversion of such products towards illicit markets. At present, oversight actions are being stepped up, launching investigative tasks through the use of appropriate techniques, with the main objectives of:

- § Determining the points and methods of diversion;
- § Identifying transport routes and groups;
- § Identifying the end user of the controlled chemical products; and
- § Selecting the most appropriate time to take pertinent judicial measures, taking into consideration the generation of evidence and compilation of information.

Investigations are conducted by analyzing and processing operational data in order to identify a specific criminal act related to the diversion of chemical products for illicit drug production. Focused on police investigation activities, investigation of the diversion of chemical products requires the use of the same investigative techniques as are used to combat illicit drug trafficking. Therefore, intelligence agents should have qualities enabling them to perform their duties, i.e., they should be patient, motivated, reserved, devoted to service, discreet, and cultivated.

IV.3.2 Types of diversion

Experiences gained in carrying out chemical product control and oversight activities, especially in countries where illicit drug trafficking-related problems are more acute, have enabled the following methods of diversion to be identified:

1. Generic

- § Fictitious names and residences;
- § Fictitious companies;
- § “Front” companies;
- § False reports;
- § Intermediaries (agents);
- § Theft/robbery.

2. External trade-related

- § False labeling and generic names;
- § Improper use of duty-free zones;
- § Disappearance from customs control points;
- § Containers/undeclared goods;
- § Contraband;
- § Loss/disappearance;
- § Use of false documents or documents obtained through bribery.

3. Transport-related

- § Use of false documents;
- § Concealment of product;
- § Replacement of container;
- § Replacement of part of product;
- § False theft/robbery information;
- § Robbery/theft;
- § Change of route.

IV.3.3 Suspicious operations

Investigation of the diversion of chemical products towards illicit markets requires special care so that harmful consequences do not ensue for honest companies carrying out their activities lawfully and undeniably constituting an important segment of the national economy. Recognizing whether a commercial transaction, performed using normal market methods, is intended for a drug trafficking need is not an easy task. However, some conducts observed during acquisition, transport, and possession of controlled chemical products suggests that such products may be undergoing diversion. Examples are:

- § Cash payment;
- § Transport at the expense of the purchaser of the products;
- § Indirect routes (diversions);
- § Excessive number of retail transactions;
- § Activity other than that stated in the company records;
- § Lack of physical contact with and/or of control of products;
- § Repeated equipment maintenance;
- § Lengthy storage time;
- § Excessive inventory;
- § Frequent changes of company registered office and/or registered name;
- § Unlabelled inventory/supplies of chemical products;
- § Excessive amount or amount sold exclusively on a retail basis, depending on the type of company.

V. Analysis of customs control

Control of external trade should be exercised by national authorities through the use of external trade authorizations. This measure should be preceded by a review of the company's records and license.

Parties interested in carrying out these activities should complete an application form, including in the file the corresponding commercial documentation, with the name, amount, concentration or contents or degree of purity, minimum percentage of product, type of container, value of goods, identification of the exporter/importer and manufacturer, data available on transport and authorization, and non-objection certificate or equivalent

document issued by the competent entities of the importing and end user's countries, where applicable. This documentation will subsequently be forwarded to the national control entity.

Once the external trade authorization has been issued for customs procedural purposes, the customs authority should be notified, in writing or through a computer system, in order to take measures within its sphere of responsibility.

VI. Analysis of external trade-related risk

In selecting freight for physical inspection, a risk analysis should be made of diversion potential, false statements regarding products and amounts, and the product's disposition and purpose.

Said analysis should include a prior study on the importation and exportation of chemical products, companies that routinely market such products, background information, etc.

A joint operations base should be established, composed of representatives of the competent national entities, whose members will have responsibility, each in its sphere of action, for analyzing requests for import and export authorizations and then conducting a risk analysis and reporting to the others on the outcome thereof.

The physical inspection should be made by a customs official or other competent authority trained to recognize and make preliminary identification, where possible, of the chemical substance arriving at the point of entry. If the substance cannot be identified on a preliminary basis using an identification kit and if suspicion remains regarding the product's identity, the official should take a sample and submit it for laboratory examination.

If an irregular shipment is detected, the customs authority or other competent authority will take the steps for which it has responsibility and will inform the other control entities for them to take the pertinent administrative and judicial measures, even retaining the freight until the case has been decided.

VII. Proposals for implementation

- Formation of an interagency group to coordinate as relevant, with a view to carrying out control activities;
- Adoption of control and oversight procedures for chemical products in ports. For example, adoption of the documents "Standard Operating Procedure" (Annex I) and "Proposed Model Legislation" (Annex II);
- Training and instructional program for agencies with responsibility for control activities;

- Ongoing exchange of information regarding suspicious operations, internally and with and among the other countries;
- Development of a profile of operations, so as to identify operations of a suspicious nature, thus guiding the corresponding oversight and investigative actions.

ANNEX I

STANDARD OPERATING PROCEDURE (SOP)

I. FOR IMPORTATIONS OF PSYCHOTROPIC SUBSTANCES AND PRECURSOR CHEMICALS

User	1	The user submits his/her documents at the office of the corresponding competent customs authority at least one day prior to the day he/she is to proceed to the goods customs clearance office.
Health Inspector	2	Receives the following original documents plus two copies from the user: <ul style="list-style-type: none">• Pre-importation health permit• Commercial invoice• Copy of manufacturer's analysis certificate• Bill of lading (maritime)• Pro-forma customs declaration (black sheet)• Copy of identification documents (customs-authorized label) The permit must be valid at the time of submission of the documentation.
	3	Compares the original documents with the copies. If irregularities are detected or the documents are incomplete, processing will not proceed, and a warning should be issued so that the user corrects the irregularities detected and processing may proceed.
	4	Completes processing control document, assigns the corresponding consecutive number, and gives the user a copy of the corresponding control document.
	5	Checks whether the information on the permit corresponds to the documents of which he/she has sight, i.e.: permit number, date, importer's name and address; name and address of exporter at point of origin, customs of entry, product imported, amount, and, if a finished product, the lot number and expiration date. <ul style="list-style-type: none">- Checks the permit's validity in the NDS.- If not found in the NDS, contacts the Office by telephone.- When the permit's validity has been corroborated:
	6	Makes a physical inspection of the quantity of the goods and their insurance. This should be done together with the user when he or she

		pre-inspects them in the inspection compound areas of the corresponding customs facility.
	7	If the documentary information coincides with the goods physically present and no irregularities are detected, date stamps the permit as received and stamps it with a COFEPRIS stamp.
	8	Immediately thereafter, the goods should be sealed with numerically-ordered COFEPRIS strips of securing tape, each signed by the health inspector.
	9	Prepares the minutes, which should include the number of the container and/or packages and the tax stamp, so that the actual amount imported can subsequently be downloaded to the NDS.
	10	The officer or inspector stamps the original permit "cancelled," signs it, and gives it to the user.
	11	The minutes are reviewed together with the user. Any necessary corrections are made, and the user is given a copy. The original and copy of the minutes are signed by the officer or inspector, the customs agent, customs legal representative or authorized representative or his subordinate, and two witnesses. All these individuals should provide identification (badge authorized by customs or the IFE), copies of which are attached to the minutes.
	12	All documents compiled during this process should be filed and duly identified by the minutes' number and the establishment's registered name.
	13	If any anomaly or situation is detected that might suggest the diversion of products at any stage of the procedure, the Office should be notified immediately.
	14	When the procedure has been completed and the user has the corresponding minutes, the corresponding goods custom clearance office procedures may begin.
User		Note: If as a result of activating the automatic selection mechanism, the user is subject to customs inspection, the corresponding customs office may request support from COFEPRIS personnel

II. FOR IMPORTATIONS OF CHEMICAL SUBSTANCES

User	1	The user submits his/her documents at the office of the corresponding competent customs authority at least one day
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		prior to the day he/she is to proceed to the goods customs clearance office.
Health Inspector	2	<p>Receives the following original documents plus two copies from the user:</p> <ul style="list-style-type: none"> • Pre-importation health advice • Commercial invoice • Pro-forma customs declaration (black sheet) • Bill of lading (maritime) or letter of carriage (land), or air waybill, as applies, and • Copy of identification documents (customs-authorized label)
	3	The importation advice must contain a date of receipt and CIS stamp of at least five working days prior to the date scheduled for the operation. However, it may be used for up to seven working days after the start date of the period for which the advice is valid.
	4	Compares the original documents with the copies. If irregularities are detected or the documents are incomplete, processing will not proceed, and a warning should be issued so that the user corrects the irregularities detected and processing may proceed.
	5	Completes processing control document, assigns the corresponding consecutive number, and gives the user a copy of the corresponding control document.
	6	<p>Checks whether the amounts indicated on the advice are within those included in the quantities agreement.</p> <ul style="list-style-type: none"> • Checks the permit's validity in the NDS. • If not found in the NDS, contacts the Office by telephone. • When the permit's validity has been established:
	7	Makes a physical inspection of the quantity and labeling of the goods. This should be done together with the user when he or she pre-inspects them in the inspection compound areas of the corresponding customs facility
	8	If the documentary information coincides with the goods physically present and no irregularities are detected, date stamps the advice as received and stamps with a COFEPRIS stamp.
	9	Prepares the minutes, which should include the number of the container and/or packages and the corresponding tax stamp, so that the actual amount imported can subsequently be downloaded to the NDS.
	10	Reviews the minutes with the user. Any necessary corrections are made, and the user is given a copy. The original and copy of the minutes are signed by the officer or inspector, the

		customs agent, customs legal representative or his representative or authorized subordinate, and two witnesses. All such individuals should provide identification (badge authorized by customs or the IFE), copies of which are attached to the minutes.
	11	All documents compiled during this process should be filed and duly identified by the minutes' number and the establishment's registered name. If any anomaly or situation is detected that might suggest the diversion of products at any stage of the procedure, the Office should be notified immediately.
	12	When the procedure has been completed and the user has the corresponding minutes, the corresponding goods custom clearance office procedures may begin.
User	14	Note: If as a result of activating the automatic selection mechanism, the user is subject to customs inspection, the corresponding customs office may request support from COFEPRIS personnel.

III. FOR EXPORTATIONS OF PSYCHOTROPIC SUBSTANCES AND PRECURSOR CHEMICALS

User	1	The user submits his/her documents at the office of the corresponding competent customs authority at least one day prior to the day he/she is to proceed to the goods customs clearance office.
Health Inspector	2	Receives the following original documents plus two copies from the user: <ul style="list-style-type: none"> • Pre-exportation health permit • Commercial invoice • Pro-forma customs declaration (black sheet) • Copy of identification documents (customs-authorized label)

	3	The permit must be valid at the time of submission of the documentation.
	4	Compares the original documents with the copies. If irregularities are detected or the documents are incomplete, processing will not proceed, and a warning should be issued so that the user corrects the irregularities detected and processing may proceed.
	5	Completes processing control document, assigns the corresponding consecutive number, and gives the user a copy of the corresponding control document.
	6	<p>Checks whether the information on the permit corresponds to the documents of which he/she has sight, i.e.: permit number, date, importer, exporter, customs of departure, product exported, amount, and, if a finished product, the lot number and expiration date.</p> <ul style="list-style-type: none"> • Checks the permit's validity in the NDS. • If not found in the NDS, contacts the Office by telephone. • When the permit's validity has been corroborated:
	7	Makes a physical inspection of the quantity of the goods and their insurance. This should be done together with the user when he or she pre-inspects them in the inspection compound areas of the corresponding customs facility.
	8	If the documentary information coincides with the goods physically present and no irregularities are detected, date stamps the permit as received and stamps with a COFEPRIS stamp.
	9	Immediately thereafter, the goods should be sealed with consecutively-numbered COFEPRIS strips of securing tape, each signed by the health inspector.
	10	Prepares the minutes, which should include the number of the container and/or packages and the tax stamp. The actual amount exported is downloaded to the NDS.
	11	The original permit is then stamped "cancelled," signed by the officer or inspector, and given to the user.
	12	Reviews the minutes with the user. Any necessary corrections are made, and the user is given a copy. The original and copy of the minutes are signed by the officer or inspector, the customs agent, customs legal representative or his authorized representative or authorized subordinate, and two witnesses. All such individuals should provide identification (customs-authorized badge), copies of which are attached to the minutes.
	13	All documents compiled during this process should be filed and duly identified by the minutes' number and the establishment's registered name.

	14	If any anomaly or situation is detected that might suggest the diversion of products at any stage of the procedure, the Office should be notified immediately.
	15	When the procedure has been completed and the user has the corresponding minutes, the corresponding goods custom clearance office procedures may begin.
	16	
User	17	Note: If as a result of activating the automatic selection mechanism, the user is subject to customs inspection, the corresponding customs office may request support from COFEPRIS personnel.

IV. FOR EXPORTATIONS OF CHEMICAL SUBSTANCES

User	1	The user submits his/her documents at the office of the corresponding competent customs authority at least two days prior to the day he/she is to proceed to the goods customs clearance office.
Health Inspector	2	Receives the following original documents plus two copies from the user: <ul style="list-style-type: none"> • Pre-exportation health advice • Commercial invoice • Article 23, duly numbered • Pro-forma customs declaration (black sheet) • Copy of identification documents (label authorized by customs or the IFE)
	3	The pre-exportation health advice must contain date of receipt and CIS stamp of at least five working days prior to the date scheduled for the operation. However, it may be used for up to seven working days after the starting date of the period for which the advice is valid.
	4	Compares the original documents with the copies. If irregularities are detected or the documents are incomplete, processing will not proceed, and a warning should be issued so that the user corrects the irregularities detected and processing may proceed.
	5	Completes processing control document, assigns the

		corresponding consecutive number, and gives the user a copy of the corresponding control document.
	6	Checks whether the amounts indicated on the advice are within those included in the quantities agreement. <ul style="list-style-type: none"> • Checks the permit's validity in the NDS. • If not found in the NDS, contacts the Office by telephone. • When the permit's validity has been established:
	7	Makes a physical inspection of the quantity and labeling of the goods. This should be done together with the user when he or she pre-inspects them in the inspection compound areas of the corresponding customs facility.
	8	If the documentary information coincides with the goods physically present and no irregularities are detected, date stamps the advice as received and stamps with a COFEPRIS stamp.
	9	Prepares the minutes, which should include the number of the container and/or packages and the tax stamp, so that the actual amount exported can subsequently be downloaded to the NDS.
	10	Reviews the minutes with the user. Any necessary corrections are made, and the user is given a copy. The original and copy of the minutes are signed by the officer or inspector, the customs agent, customs legal representative or his representative or his authorized subordinate, and two witnesses. All such individuals should provide identification (badge authorized by customs or the IFE), copies of which are attached to the minutes.
	11	All documents compiled during this process should be filed and duly identified by the minutes' number and the establishment's registered name.
	12	If any anomaly or situation is detected that might suggest the diversion of products at any stage of the procedure, the Office should be notified immediately.
	13	When the procedure has been completed and the user has the corresponding minutes, the corresponding goods custom clearance office procedures may begin.
User	17	Note: If as a result of activating the automatic selection mechanism, the user is subject to customs inspection, the corresponding customs office may request support from COFEPRIS personnel.

ANNEX II

NATIONAL REGISTER OF PRECURSOR CHEMICALS

Law 26.045

The above-mentioned Register is hereby created within the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs.

Adopted: June 8, 2005

Enacted: July 6, 2005

THE SENATE AND CHAMBER OF DEPUTIES OF THE ARGENTINE NATION, GATHERED IN CONGRESS, ETC. HEREBY ENACT THE:
NATIONAL REGISTER OF PRECURSOR CHEMICALS ACT

ARTICLE 1. The National Register of Precursor Chemicals for which Article 44 of Law No. 23.737 provides is hereby created within the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs.

ARTICLE 2. The obligation to register as provided in Article 44 of Law No. 23.737 shall apply wherever are incorporated or act individuals, corporations, or any type of association or partnership, whether or not incorporated.

ARTICLE 3. The objective of the enforcement authority shall be to exercise control of the possession, utilization, production, manufacture, extraction, preparation, transport, storage, marketing, exportation, importation, distribution, or any type of transaction with authorized chemical substances or products which, owing to their characteristics or components, may serve as the basis for or be used in preparing narcotics, hereinafter referred to "precursor chemicals" for all purposes hereof.

ARTICLE 4. The acts referred to in Article 44 of Law No. 23.737 and the preceding article hereof may only be carried out by those with prior and express authorization from the National Register, which shall grant it by approving or renewing their registrations.

ARTICLE 5. The provisions of this law shall apply to such chemical substances or products as the Executive Branch may include in the lists to which Article 44 of Law No. 23.737 refers.

ARTICLE 6. The enforcement authority shall be empowered to carry out all acts necessary to establish fulfillment of the obligation to register with the National Register referred to in Article 1 hereof, the accuracy of the information provided, and, in general, fulfillment of all other obligations under this law and its regulatory provisions.

Third parties that are subject to the obligations set forth in Article 2 and de facto or legally-established economic groups that have or may have had ongoing or incidental relationships with such third parties shall provide all information requested of them for purposes of the comptroller for which this law provides.

The enforcement authority may request assistance from the police and shall also have the authorities set forth in Article 184.2, 184.3, 184.4, 184.5, 184.6, and 184.8 of the Penal Procedural Code. When appropriate, it shall perform its functions in accordance with the provisions of Articles 185 and 186 of said Code.

ARTICLE 7. Those registered in the National Register shall be subject to the oversight provided for herein and provide such information and show such documentation as may be requested of them for purposes of the comptroller to be established. Without prejudice to their compliance with said comptroller and to fulfillment of the duties and obligations arising hereunder, and under Law No. 23.737 and other regulatory provisions, the following shall be special obligations:

1. To maintain complete, accurate, and updated records of the inventory of movements of precursor chemicals within the scope of this law, which shall contain such minimum information as such regulations may establish, which shall also establish the formalities of such record-keeping.

To inform the National Register as a sworn statement of the movements of controlled chemical substances as contained in the records referred to in the preceding paragraph, on such terms and conditions as the enforcement authority may establish.

2. To establish and maintain one or more sites for substance control, reporting the opening of any new site, and, if applicable, giving such notice as the regulations may establish, as well as notice of changes to or relocations of existing sites.

3. To report within the period established by the enforcement authority all activity to which Article 8 refers in which they participate when there are reasonable grounds to believe that the substances subject to said authority may be utilized for illicit purposes.

It shall be considered that there are reasonable grounds for reporting in particular when the amount of substances, or their disposition, or the form of payment or characteristics of the purchaser are irregular or inconsistent with information previously provided to the enforcement authority.

4. To effect the domestic commercial transactions with chemical substances to which this law refers only with those registered in the National Register.

5. To request pre-import or export authorization from the enforcement authority, in accordance with such safeguards as it may establish.
6. To report any robbery, theft, loss, reduction in quantity, or irregular or substantial disappearance of controlled chemical substances, within the period and on the terms and conditions established by the enforcement authority.
7. To record their National Registry registration numbers on all commercial documentation regarding their operations or activities.
8. To note on the substances' containers such prescriptions as the enforcement authority may establish.
9. To comply with all other regulatory provisions hereof, on the terms and conditions and the occasions corresponding in each case.

ARTICLE 8. Physical persons and/or corporations and, in general, all those, under any form and/or legal organization, whether or not incorporated, whose purpose or activity is to produce, manufacture, prepare, produce, repackage, distribute, market on a wholesale and/or retail basis, store, import, export, transport, transship, and/or perform any other type of transaction – national or international – with any substance stipulated by the Executive Branch in accordance with the provisions of Article 5 hereof shall, prior to beginning any such operation, register with the National Register of the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs of the Office of the President of the Nation.

Such registration shall be considered the authorization required to fulfill its purpose.

ARTICLE 9. The analytic characteristics of the products and substances to which this law refers, procedures to be followed in taking samples, analyses and technical studies, allowable analytical tolerances, stock, reductions in stock, and uses of sub products and their interpretative provisions shall conform to such regulations as the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs may establish.

ARTICLE 10. With regard to the supply of precursor chemicals, the enforcement authority of this law shall exercise the authorities for which Law No. 20.680 provides. Accordingly, suspension as provided in Decree 2284/91, and ratified in Article 29 of Law No. 24.307, shall not apply.

ARTICLE 11. The Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs, as the enforcement authority referred to in Article 44 of Law No. 23.737 and herein, shall have the authority to issue regulatory provisions and adopt the measures necessary to ensure that the control for which it has responsibility is as effective as possible.

ARTICLE 12. The enforcement authority shall be authorized to:

- a. Organize a National Register of Precursor Chemicals.
- b. Receive such administrative information, submissions, or reports, whatever form these may take, as may enable it to exercise its oversight and comptroller functions.
- c. Make reports to judicial and administrative authorities.
- d. Request the judge and/or competent administrative authority to suspend decisions of governing bodies; judicial intervention from the oversight administration or entity, and, if necessary, the dissolution and liquidation of any type of company or other entity or form of association provided for herein in cases of violation of this law or its regulatory provisions.
- e. Request the comptroller administrative authority referred to in the preceding subparagraph, for justified reasons, to exercise oversight functions, without prejudice to such inspections as the enforcement authority may make under its authorities and/or actions in coordination with said or other authorities, in accordance subparagraphs (f) and (k) of this article.
- f. Request that other state entities exercise control and oversight functions in accordance with their respective competences.
- g. Regulate and arrange for the submission of special or complementary reports or financial statements in addition to those stipulated by the competent authority, and their certification by professionals registered in the respective registers.
- h. Provide advice to state entities on matters within its competence.
- i. Conduct chemical, biochemical, legal, economic, accounting, and general studies and research on the matters within its competence, itself, or through specialized public or private entities.
- j. Organize courses and conferences, publish, and promote publications.
- k. Coordinate with national, provincial, and municipal organizations carrying out similar functions the oversight and control tasks incumbent upon it.
- l. Organize procedures for processing such documentation or evidence to which it may have access in the exercise of its functions, in accordance with the most appropriate technology available.

m. Comply with the information obligations assumed under international conventions and agreements, whether bilateral or multilateral, in particular, those established by the United Nations International Narcotics Control Board (INCB) and the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States.

n. Propose to the judge with jurisdiction the disposition of such products or substances as may have been forfeited.

o. National Register officials may carry out inspections nationwide for the purposes set forth in Article 6 hereof in connection with the parties subject to the obligations referred to in Article 8 hereof who carry out activities to which said article refers, whether or not such parties are registered in the National Register.

ARTICLE 13. The Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs is the authority with competence to impose the administrative sanctions established herein in cases of total or partial non-fulfillment of the obligations established in this law or its regulations.

Should the enforcement authority consider that an offense may have been committed, it shall apply to the competent judge, forwarding to him or her the prosecutorial information or certified copy thereof.

ARTICLE 14. The Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs may impose the following sanctions:

- a. Warning.
- b. Warning, with publication of the decision so warning the infractor, on such terms and conditions as the regulations may establish.
- c. A fine of ten thousand pesos (\$10,000) to one million pesos (\$1,000,000).
- d. Suspension of the registration in the National Register for fifteen (15) days to one (1) year.
- e. Permanent cancellation of registration in the National Register.

ARTICLE 15. Sanctions shall be progressively increased in accordance with the severity of the infraction, any previous infractions on the part of the infractor, the economic value of the infraction, and its societal impact.

ARTICLE 16. Appeals may be brought before the National Chamber of Appeals for Federal Administrative Cases against the administrative sanctions established herein.

Appeals and the grounds therefor shall be lodged with the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs within ten (10) working days of notification of the decision. In the absence of appeal, sanctions shall be deemed effective.

Cases shall be brought before the National Chamber of Appeals for Federal Administrative Cases, which shall decide them without proceedings. Successful appeals shall overturn lower court decisions unless otherwise stipulated by the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs. If reasons intended to prevent irreparable burden on the party concerned or to protect third parties, execution of the judgment of the lower court may be suspended while the appeal is heard.

ARTICLE 17. In the case of a corporation whose exclusive purpose is any of the acts to which Article 44 of Law No. 23.737 and Article 3 hereof refer, permanent cancellation of its registration in the National Register shall lead to its dissolution and liquidation.

Such a sanction may also be applied, in the same circumstances, in the case of other unincorporated forms of association.

ARTICLE 18. The fines stipulated herein may be used solely to defray the National Register's operating costs; fulfillment of the functions established herein; corrective and/or educational security measures; and the treatment to which Law No. 23.737 refers. Such measures may be taken by national public, provincial, or municipal entities, or nongovernmental organizations authorized and overseen by the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs, as established in the regulations.

ARTICLE 19. The national Executive Branch may entrust provincial governments with specific aspects of implementation of this law under agreements or conventions to be concluded in each case, whose contents shall be in keeping with the circumstances of each province.

In addition, the Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs may delegate to offices with territorial competence the functions listed in Article 12 hereof.

In such cases, appeals against sanctions imposed may be lodged with the Federal Chamber with jurisdiction in the place in question.

ARTICLE 20. This law shall come into force sixty days from its date of publication. Within that period, provisions shall be issued for the structure and functioning of the National Register and the Executive Branch shall issue the respective regulations. Until such time, existing provisions not contravening this law shall remain in force.

ARTICLE 21. The Secretariat for Drug Addiction Prevention and Anti-Drug Trafficking Programs shall publish at least once each year such reports on the actions of the National Register of Precursor Chemicals as it submits to the United Nations International Narcotics Control Board (INCB) and the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States.

Another such publication shall be prepared based on the actions carried out by the Interministerial Committee instituted in Decree No. 1168/96.

ARTICLE 22. The National Register of Precursor Chemicals referred to herein in Article 1 shall continue to carry out, until this law comes into force, the functions and tasks thus far begun by the Office of the National Register of Precursor Chemicals established in Decree 2300/02 and any amending, regulatory, and/or concurrent provisions thereto.

ARTICLE 23. So inform the Executive Branch.

DONE IN THE CHAMBER OF THE ARGENTINE CONGRESS, IN BUENOS AIRES, ON THE EIGHTH DAY OF JUNE IN THE YEAR TWO THOUSAND AND FIVE.

—RECORDED UNDER No. 26.045—

EDUARDO O. CAMAÑO — MARCELO A. GUINLE — Eduardo D. Rollano — Juan Estrada



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INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION

CICAD

Secretariat for Multidimensional Security

GUIDELINES FOR STRENGTHENING CONTROL OF CONTAINERS

Viña del Mar, Chile

I. Introduction

The international maritime trade mobilizes millions of containers per year. Handling of the cargo should be done in an expedited manner, but not excluding a proper control by authorities. Control of containers should be made in an efficient way in order to succeed in the detection of diversion and illicit activities that might affect foreign trade in each country. Some of these activities are drug trafficking, terrorism, fraud, smuggling and so on. The control of the containers should also be done attending the existing asymmetries on the economical and technological matters of each country favoring the international cooperation of these ones.

Selectivity, document analysis, the identification of risk profiles, intelligent control systems (including non-intrusive technology) and information exchange, are tools designed to assist the port facilities, customs and police surveillance of countries, to establish control of containers in an effective way. These tools will enable the authorities in the ports of origin, transit and destination to coordinate joint operations to avoid delays and increases in the cost of international trade. They will also avoid the use of these containers for illicit activities, such as trafficking of stolen and counterfeit goods, weapons and explosives, dangerous chemicals, narcotics and human beings.

II. Purpose

In Cartagena de Indias - Colombia during the roundtable discussion between August 18 and 20, 2008, at the Officers Club of the Navy of Colombia, officials from customs, maritime, health and police of Argentina, Chile, Brazil, Venezuela, El Salvador, Canada, Haiti, Mexico and Colombia, responsible for control of containers in the traffic of illicit substances in the seaports, concluded on the need to carry out non intrusive controls of containers based on the profile risk and new technologies. This recommendations don't have any mandatory effect therefore the respect for the sovereignty and internal legislations of each country should prevail.

2. SAFETY IN THE LOGISTICS CHAIN AND INFORMATION EXCHANGE

Accurate and current information concerning import and export companies is valuable and important for the authorities in their control processes. It enables them to develop and outline risk analysis documentation and operations to target their activities and improve their controls over cargos. To do so it is necessary to:

- A. Develop reliable information systems of foreign trade operators.
- B. Enhance information exchange between different countries, in accordance with their respective laws, and according to international agreements.

RECOMMENDATION

To enforce the use of the current information exchange agreements, it is suggested that each country establishes an e-mail point of contact for a group that could exchange information regarding, among other things, the identification of reliable operators from third countries.

This contact group would be informed by each of the countries involved in this initiative, and the coordinator of the activity in this case Argentina will forward the consolidated information to each participant and CICAD.

3. CONTAINERS. BACKGROUND AND ROUTING. RISK ASSESSMENT

The Group considers it essential for the purposes of assessing the risks inherent in the control of containers, to be aware, of the tracking of the containers in the different countries.

The following information should be required:

1. Date of port of origin departure, transit, transshipment.
2. Place of origin of the cargo.
3. Seals at departure.
4. Length of stay in port.
5. Seal at arrival
6. Activities of the container within each country:
 - a) Cities where the container pass through.
 - b) Name of the company that leases the container for activities of foreign trade.
 - c) Places of Storage.
 - d) Sites where the capacity of the container is checked.

RECOMMENDATION

It is recommended that the competent bodies in each country initiate communication with the private sector including owners of the containers, to expedite and increase the efficient provision of information and records on the movement of these containers. It is also suggested that competent agencies consult with shipping lines and other companies to obtain cargo manifest information in a more timely manner. This would provide more time for review, risk analysis and operational planning as part of the control process. In suspicious cases or those where problems have been identified agencies should provide feedback to the countries involved with information on the cases, in accordance with national laws of the countries.

4. TECHNOLOGY APPLIED TO THE CONTROL OF CONTAINERS

Some participating control agencies commented on the usefulness and functionality of on-going monitoring of containers using cutting edge technology. This can help increase awareness when the containers are opened in transit in the logistical chain and they are in storage in the port indicating the date and times for each of the foregoing. This permits the control authorities at the ports to have a verification tool for the physical inspection. In relation to the above, we suggest that consideration be given to the use of the following:

1. Smart electronic stamp, which tells the exact location and real-time of the container and also provides alerts when undergoing any eventuality in its structure during the route.
2. Chambers of optical character recognition (OCR), located at strategic points of the country borders and principal routes of distribution, which captures automotive plates and identification of letters and numbers of containers, allowing assessing routes and detours.
3. Non-intrusive system, using X-rays, neutrons and gamma rays as a tool for verifying the cargo on the containers.

RECOMMENDATION

We suggest that the authorities of each country evaluate the possibility of implementing intelligent control mechanisms similar to those mentioned according to their possibilities.

At the same time, countries where this technology is in place should offer to collaborate with the implementation of this technology in other countries.

5. FOREIGN TRADE INTERMEDIARIES. RESPONSIBILITIES

Customs brokerage and clearance companies and others with similar functions should provide the competent agencies or authorities with the following information that would help control bodies to develop appropriate risk profiles.

1. Possible suspicious transactions or operators
2. Possible fictitious companies.
3. False documents.
4. New customers and those not normally involved in foreign trade.
5. Securing the documentation related to the foreign trade transaction.

RECOMMENDATION

Customs brokerage clearance companies and all persons performing functions such as customs procedures in each country should commit, through existing internal regulations to cooperate with the relevant control services in obtaining the information mentioned above. It is also suggested, according to local laws of countries, to direct the legal mechanisms for achieving the indicated implementation.

6. Chemical precursor control and Information Gathering

In addition to the controls currently in place to control precursors and essential chemical substances, the following actions are recommended:

1. Optimize the procedures for exchanging information both internally and with other countries to obtain favorable results in the efforts to prevent trafficking and diversion of such substances.
2. Implement internal computer systems with centralized databases.
3. Create and/or implement committees or working groups to strengthen the links between domestic institutions.

7. RISK PROFILE. WHAT TO LOOK FOR AND THE PROPER RESPONSE

It is recognized that each country has the autonomy to:

1. Set risk profiles according to the document analysis software or set of "alarms" established for effective control of drug trafficking.
2. Establish policies for recognition and priority regarding notifications, announcements or intelligence reports when received from other countries.
3. Provide proper response to the issuing country regarding the efficiency of the alerts

8. CONTROL OF THE SECURITY OF SEALS ON CONTAINERS

It is suggested that the containers that are being used for export, import, transit, cargo unload/reload, among others, be scrutinized through the following:

1. Random and selective checks to verify the integrity of seals and/or sealing locks. These seals can be cloned or altered in their structure or numbering, they can also be violated or opened and then rebuilt.



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INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION

CICAD

Secretariat for Multidimensional Security

Best Practices to Increase Security in Free Trade Zones in Ports and Tax Free Ports

Viña del Mar, Chile

Best Practices to Increase Security in Free Trade Zones in Ports and Tax Free Ports

This instrument of Best Practices is the result of a systematic Ad Hoc Expert Group on Maritime Drug Trafficking, whose purpose is to make recommendations to Member States of the Organization of American States (OAS) in combating maritime drug trafficking, providing special support to enhance security at the ports of the Free Trade Zones in Ports and Tax Free Ports.

The development of this instrument does not bind the Member States and is based on the experience in fighting drug crime and criminal methods employed in free trade zones in ports and tax free ports. Following this path, represents a contribution of some of the best practices that will help Member States to reduce drug trafficking by sea and to establish better controls.

Criminal activity is governed under the same concepts of economic market and works as a criminal enterprise. Being so, it is for Member States to take the lead in detecting maritime drug trafficking and drug trafficking, taking advantage of the benefits of a free trade zones in ports and tax free ports, and generate protecting actions and adopt measures to prevent the malicious use of port facilities for international trade.

Best Practices set out in this instrument provide a methodology to evaluate the security offered at Free Trade Zones in Ports and Tax Free Ports, allowing to react against transnational criminal drug trafficking actions and to act against them effectively.

The list of Best Practice set out below does not necessarily mean the orderly execution of the first to implement the following items. All items have a practical value, but for methodological purposes we will treat as follows:

1. To have a system to verify the identity of all persons who must enter the port facilities and limit access to people outside the area.
2. Manage a proper control of vehicles.
3. Inspections of persons, personal effects, vehicles entering and leaving the commercial area.
4. Identify the doors not used regularly and close them permanently.
5. Have strict records of employees and others who work in the open area.
6. Maintain canine units to detect narcotics.
7. Establish a system of closed circuit video and secure technology.
8. To have a system of advanced information for movement of goods.

9. Establish a special and segregated area for inspection of suspicious cargo.
10. Collection and use of scanners for non-intrusive or invasive inspection.
11. Institute a program to perform routine inspections of warehouses and stores in the Tax Free Ports with canine units to verify the cargo or existing merchandise.
12. In the case of free trade zones the documentation of cargo that was declared should be analyze along with the certification of the existing cargo at the warehouse.
13. Constitute a risk analysis group to establish criminal profiles according to the type of merchandise.
14. Implement a continuous training of staff in procedures and techniques to search for narcotics and other dangerous substances.

I. STRENGTHEN SECURITY IN FREE TRADE ZONES IN PORTS AND TAX FREE PORTS:

Free Trade Zones in Ports and Tax Free Ports, within a globalized world, emerge as an incentive to trade and produce goods, facilitating trade and customs paperwork. They can be defined as special areas created deliberately by Independent States, respecting international agreements, within which a variety of economic activities, including import, export, and processing of goods, which natural and / or legal persons should operate with exceptional tax rules and custom controls established by different countries.

However, these facilities coupled with the variety and volume of goods that are traded in these areas are attractive to criminal groups engaged in drug trafficking and related crimes, which makes it mandatory to adopt mechanisms to control the activities that are developed.

These areas are attractive to organized crime because there are a lot of movement of goods whose control is difficult and, therefore, are vulnerable to the following threats: terrorism, drug trafficking, money laundering, Intellectual Property, Unfair Competition, Theft of Trade, trafficking, Sabotage, among others.

Under this perspective, we must endeavor to harmonize the rules for use of areas, to combat the above threats and promote the principle of social responsibility between the State and individuals, to prevent areas from being used for activities related to drug trafficking, promoting information exchange among member countries.

Therefore, it is necessary to create a model of best practices to try to harmonize the rules at international level in order to safeguard all countries of the potential threats for the Free Trade Zones in Ports and Tax Free Ports.

1. To have a system to verify the identity of all persons who must enter the port facilities and limit access to people outside the area.

Implementation of the use of an access control system to the areas can be achieved through the following mechanisms:

- Visible passes.
- Control of the areas in which there are people outside the Free Zone.
- Number of employees in uniforms.

2. Manage a proper control of vehicles.

To effectuate the control of entry and exit of vehicles to the areas, you can generate the following controls:

- Numbers in vehicles.
- Have visible registration in the transportation.
- A limited number of members within the vehicle entering.

3. Inspections of persons, personal effects, vehicles entering and leaving the commercial area.

The preventive activity and investigation of crimes, under the use of records, avoids the destruction of evidence, which may itself determine the flagrancy of the offense, thus:

- In the entrances and exits to detect weapons, drugs or illegal items, and search for technology to take photographs or capture images.

4. Identify the doors not used regularly and close them permanently.

This action will limit the number of access points to the zone, with the effect of increasing the existing controls.

5. Keep strict records of employees and others who work in the area open.

It is essential to promote the implementation of physical security activities in the common areas and companies, through:

- 24 hours Security.
- Spinning doors at entrances and exits of the area.
- Electronic passes reader.
- Use of metal detectors.
- Check of briefcases and suitcases.

6. Maintaining a unit to detect narcotics.

Having a specialized unit or an interdisciplinary group in the detection and monitoring of both narcotics and precursor chemicals in the Free Trade Zones in Ports and Ports Free Zone, will lead to direct efforts to counteract maritime narcotrafficking on strategic points of the terminal, to monitor the perimeters of the springs and the access channel for ships, as well as coverage of the area.

7. Establish a system of closed circuit video and secure technology.

Electronic surveillance in areas of common use, the development of effective media, the finger print control of the entry and exit of employees, and the computerization of business records, are highly productive tools in the fight against drug trafficking, especially if promoted by the following means:

- Closed Circuit Video system.
- Perimeter Alarm System.
- Intrusion Detection System.
- Use of radios for internal communication connected to a control center.
- Control of entrance and exit of employees system.
- Carriers Identification System.

8. To have a system of advanced information for movement of goods.

With this type of actions you can have information about the cargo twenty-four (24) hours prior to the arrival at the port and at the same time control its departure with the same amount of time, thus enabling the profiling and assessment risk, but principally will rise the verification of full compliance of the requirements that the cargo in free trade zones demand.

- This measure ensures the execution of all tasks related to the protection of the port facility.
- Allows to control the restricted areas so only authorized personal can have access.
- Facilitate the supervision of cargo handling.
- Ensure the immediate availability of the means of communications about protection.

9. Establish a special and segregated area for inspection of suspicious cargo.

In this special area where all the goods entering and leaving the area are examined, based on a risk profile, a methodology should be develop for security assessments, there should be plans and procedures to react against drug trafficking activities.

10. Collection and use of scanners for non-intrusive or invasive inspections.

This technology will allow the detection of explosives and narcotics, in the cargo that enters, departs or passes through the port, as well as prevent and combat the use of installations and port facilities for illegal purposes, thereby affecting the enhancement of security and protection against maritime narcotrafficking.

11. Institute a program to perform routine inspections of warehouses and stores in the Tax Free Zones with canine units to verify the cargo or existing merchandise.

The implementation of mechanisms for regular monitoring and control of warehouses and stores of the companies established in the Areas, aims to prevent activities related to drug trafficking and related crimes. This can be made effective through the use of:

- Dogs to detect narcotics (passive and active).
- Dogs to patrol.
- Qualified guides for the detection of illegal substances.
- Service available the 24 hours.

12. In the case of free trade zones in ports the documentation of cargo that was declared should be analyze along with the certification of the existing cargo at the warehouse.

It's necessary to promote the analysis and monitoring of the commercial labor that reflects in each company within the Free Trade Zone in Port. The analysis suggested in this case is designed to prevent activities related to drug trafficking, in particular:

- Search for indicators or warning signs.
- Indicators with unanswered logic, will generate a higher level of risk.
- The frequency of analyzing the documents by 90% reduces the search for suspicious cargo to 10%.
- According to the results profiles can be established.

For more certainty of the analysis is essential to encourage the computerization of the records of the commercial enterprises established in the zones.

13. Constitute a risk analysis group to establish criminal profiles according to the type of merchandise.

This group will generate matrix, profiles and risk assessments of routes, from the ports of origin, transit and destination of the cargo, of the economic agents involved and the nature of it, in order to limit the actions of drug traffickers

14. Implement a continuous training of staff in procedures and techniques to search for narcotics and other dangerous substances.

It is required to encourage the inter agency training of public and private in subjects related with the traffic of illegal substances. This has the objective to assist with the help the fight against drug trafficking, especially in the following aspects:

- Knowledge of current trends and threats related to protection.
- Recognition and detection of weapons and narcotics.
- Recognition of characteristics and behavioral patterns of persons who are likely to threaten security.
- Techniques for managing and controlling crowds.
- Communications related with protection.
- Operation of equipment and protection systems.
- Testing, calibration and maintenance of protection systems.
- Techniques for inspection, monitoring and observation.
- Methods of physical searches of persons, personal effects and baggage loading.



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Secretariat for Multidimensional Security

Guide for the Control or Regulation of Companies that Build, Repair or Remodel Boats or Motors/Engines

Viña del Mar, Chile

Guide for the Control or Regulation of Companies that Build, Repair or Remodel Boats or Motors/Engines

PREAMBLE

One of the methods used for the trafficking and distribution of psychotropic substances by drug trafficking organizations is the use of self propel small boats under 25 TRN, naval crafts, submersibles and semi-submersibles that navigate infringing the state members maritime legislation or the regulation applicable in international waters.

In this sense, it is well known that the final or temporary modifications made to the ships without approval of the Member States, is also a method used for the trafficking of these substances.

This document was prepared by a sub group within the Working Group on Maritime Narcotrafficking as a draft guide of recommendations of possible actions to be taken by the Member States to help establish more effective controls in the process of construction, repair, final and temporary modifications of ships, naval crafts, and semi-submersibles. It was also prepare to help facilitate the collection and distribution of information as an effort to enforce the law among drug trafficking organizations. This project may, in the Member States who find it necessary, be subject to internal consultations, for completion by the next working group meeting.

For this purpose it was agreed to divide the work on the following topics:

- 1. Responsibility of the manufacturer's on registering and the registration of hulls and engines.**
- 2. Control of minor vessels, naval crafts submersibles and semi-submersibles not authorized for international commerce**
- 3. The responsibility of the shipyards in the construction, repair and permanent or transitory modifications of small ships, minor naval crafts, submersibles and semi-submersibles.**
- 4. Registering and registration of small ships, minor naval crafts, submersibles and semi-submersibles.**
- 5. Control of temporary modifications to the structures of national and foreign ships and naval crafts.**

1. Responsibility of the manufacturer's on registering and the registration of hulls and engines.

It is suggested that states consider:

A. In the event that in a country is known that the data identification of the propeller engines are vulnerable, since they are not technically recorded on a permanent way, contact the manufacturers and importers of the propeller engines. This in order for them to implement a system that can engrave the engine number permanently, preferably in low relief on the blocks or power heads of the engines, rather than on replaceable parts.

B. In the event that in a country is known that the construction models of small boats made of fiberglass are copied by illegal builders, give the responsibility to the manufacturers of boats to implement the scheme of the identification number of the hull which from now on will be name (NIC) and engrave it on permanent places of the ship which will be stipulated by the proper authority.

C In the event that in a country is necessary to count on the traceability of buying and selling documentation of boats, it is recommended to adopt the necessary measures to ensure that such transactions are documented, especially in the case of smaller vessels and speedboats, in order to provide accurate information.

D. The competent authority may obtain, without delay, information about theft or loss of vessels and/or its engines, in order to contribute to the recovery of the good or to determine its potential use in illicit activities.

E. In the event that a country does not have detailed information of the ships built, it is recommended to design a system that will allow competent authorities to obtain information from manufacturers in order to consult, verify and control.

This information should including the following:

- 1) The hull identification number (N.I.C)
- 2) Name and identification of the owner
- 3) Activity to which it was purchased.
- 4) Length, beam, derrick, draft, tonnage and color.
- 5) Type, quantity, propulsion power and the engine series.

2. CONTROL OF MINOR VESSELS, NAVAL CRAFT, SUBMERSIBLES AND SEMI-SUBMERSIBLES NOT AUTHORIZED TO ENGAGE ON INTERNATIONAL TRAFFIC.

It is suggested that states consider that:

A. In the event that a Member State may need information from the international movements of vessels of another Member State under their jurisdiction, these states might exchange of information according to their respective laws. In order to do so it is necessary to design communication schemes that can facilitate verification processes when taking a decision.

B. The information contained in the paragraph above should be at least the following:

- 1) Flag.
- 2) Name.
- 3) Registration.
- 4) N.I.C
- 5) Classification of the ship.
- 6) List of crew and nationality.
- 7) Port of departure and the authority that issued the departure.
- 8) Port of destination

C. In the event that a Member State detects in their territorial waters a vessel of another state that has been reported by the flag state as not authorized for international navigation, the country that detected the vessel should report to the latter state via the competent authority. If the ship is already in port, it will be inspected in accordance with national law, informing the flag state of the actions taken as soon as possible.

D. It is suggested that Member States consider the feasibility and interest to create an information exchange system to enable the competent authorities to disseminate and learn in the shortest possible time, the information about stolen ships in the territory of the Member States.

3. The responsibility of the shipyards in the construction, repair and permanent or transitory modifications of small ships, minor naval crafts, submersibles and semi-submersibles.

It is suggested that states consider:

A. In the event that a Member State does not have records of repairs and/or temporary or permanent modifications to vessels, naval crafts, submersibles or semi-submersible, it is suggested to create through the authorized shipyards a plan to keep a record that will contain at least the following:

1. Number of authorization issue by the competent authority and type of work to be done.
2. Date of commencement and completion.
3. Description of work done.
4. Inspector of the flag.
5. Name of the responsible of the boat.
6. Name of the responsible of the shipyard and his registry.
7. Details and nature of the modification.

B. If necessary, the competent authority may obtain from the shipyards the information without delay about changes and constructions made.

C. It is suggested that each flag State considers the development of a technical study in order to implement a law that limits the power of the ships with respect to the speed required to ensure proper operation according to the activity that was authorized to the ship.

4. Registering and registration of small ships, minor naval crafts, submersibles and semi-submersibles.

A. Whereas a Member State does not currently have a hull identification system (IAS), it is suggested as contemplated in CICAD's document: **MODEL SYSTEM OR VESSEL REGISTRY TO MONITOR PLEASURE CRAFT, TRADITIONAL FISHING VESSELS, AND SPEEDBOATS, IN SUPPORT OF MARITIME DOMAIN AWARENESS AND INVESTIGATIONS**, to consider and implement this document at the request of other States to provide the information contained in the NCI of any boat.

B. It is suggested that each State Flag consider developing a technical policy for the legal control of construction and use of submersibles and semi-submersibles.

C. In the event that a Member State has difficulties to know on an ongoing basis, monitor and respond effectively to emergencies in the ships of its flag, it is suggested to consider implementing a tracking system route by satellite in the crafts designed to transport cargo, fishing and scientific research.

D. It is suggested that each Member State consider the possibilities that the ISPS code brings to expand of the scope of application to ships under 500 GRT, those of coastal ships and ports from which these depart and/or visit.

5. Control of temporary modifications to the structures of national and foreign ships and naval crafts.

A. It is suggested that each flag state consider including in the matrix of risk analysis systems for the protection of its ports, as a threat to the ships of its flag and the ships that use their port facilities, the action of introducing pieces that are not originally part of the ship, since they allow or facilitate the trafficking of illicit drugs.

B. It is suggested that each flag state considers establishing an exclusion zone for nautical sports activities, submarine sports activity, small fishing boats, industrial and subsistent fishing as well as other traffic, in the area of ships maneuvers not related with the port activities common of each mooring of vessels at port facilities.



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MODEL OPERATING PROCEDURES GUIDE FOR COMBINED MARITIME COUNTER DRUG OPERATIONS

Viña del Mar, Chile

MODEL OPERATING PROCEDURES GUIDE FOR COMBINED MARITIME COUNTER DRUG OPERATIONS

PREAMBLE

A Working Group of Experts from ten (10) CICAD member States examined the issue of Maritime Narcotrafficking involving illicit drugs and related contraband in the hemisphere. A recommendation that was made to the CICAD XXXIV REGULAR SESSION; to develop a Model Maritime Operating Procedures Guide for Joint or Combined Bilateral/Multilateral Interdiction Operations was accepted.

PURPOSE

This Guide may serve as a reference by those member States to the extent that their respective national laws and regulations allow them to engage in such international cooperation. Operations pursuant to international cooperation against maritime narcotrafficking must at all time respect the jurisdictional limits and national legal systems of the States involved. Furthermore, this Guide is not to be interpreted as a legal instrument that introduces new obligations for the member States.

JURISDICTION

This Guide is intended to provide a framework of elements that countries should consider when contemplating entering into agreements to carry out combined counterdrug operations. It encourages international cooperation in the fight against illicit drugs with consideration and respect for national sovereignty and the provisions of relevant international agreements and conventions such as the United Nations Convention on the Law of the Sea (1982), United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 1988) and other agreements and instruments.

The Guide also recognizes the authority of states as defined by the jurisdictional waters under their control.

I. SITUATIONS FOR CONDUCTING COMBINED OPERATIONS

PLANNED OPERATIONS

Planned operations are operations that are planned in advance between the participating States for the suppression of illicit maritime of narcotic drugs and psychotic substances. Planned operations may be conducted for intelligence patrols, taking enforcement actions or enforcing international conventions, bilateral/multilateral agreements with respect to counter drug situations

On the receipt or analysis of intelligence on drug trafficking patterns or routes, States may collaborate with each other to plan coordinated aerial and surface activity within their capacity to respond to and interdict suspect vessels and over a predetermined period.

All information/intelligence gained during any operation with respect maritime drug trafficking within another States territory shall be immediately shared with that State.

UNPLANNED OPERATIONS

Unplanned operations may be conducted in response to immediate situations related to the control of drugs and chemical precursors within the limits of each country's capability and jurisdiction. These operations may include detection and monitoring (D&M) and interdiction, taking into consideration the location of the suspect vessel. Should it be necessary to carry out such operations within the jurisdictional waters of another State, they may only be done so with the express consent and knowledge of the competent authorities of that State.

During the patrol and surveillance activity of law enforcement agencies, situations may develop where immediate action may be required to interdict suspect vessels. There will be cases where once an order to stop or land is disregarded and a pursuit has commenced, suspect vessels will attempt to seek refuge in another Member State's territory in the vicinity. In situations when it is necessary to continue a pursuit into that State's waters, the pursuit shall be carried out by the law enforcement agencies of said State, which shall take over the pursuit.

Additionally, a Member State may request the assistance of another Member State to respond to a drug trafficking incident in progress for which it is unable to mobilize promptly enough to effect an interdiction. The Requesting Member State may request the participation of available law enforcement assets of another Member State within their capability to respond.

These types of missions are termed unplanned or impromptu operations and require the participating Member States to act expeditiously based on mutual cooperation and respect for national sovereignty.

The following is the procedure that should be followed when pursuing suspect vessels into the jurisdictional waters of a Member State where the pursuit of a suspect vessel may extend and terminate, subject to their consent.

UNPLANNED OPERATIONS INVOLVING LAW ENFORCEMENT UNITS OPERATING IN INTERNATIONAL WATERS

From the time the Commander of a law enforcement asset operating in international waters (as defined by the participating country) has reason to believe that a pursuit which he has commenced in international waters may venture into a third party member State's jurisdictional waters, he must first attempt to inform the appropriate National Authority of that member State of the situation, either directly or through his Command, advise what action he intends to take with respect to the pursuit (especially the use of disabling fire), and request clearance to enter its jurisdictional waters and carry it out. Subject to the aforementioned clearance, that action may entail, but not necessarily be limited to, the following:

- Dispatch of a surface asset to intercept
- Dispatch of ground forces to the suspected point of landing
- Dispatch of aircraft to takeover the pursuit

In such cases, should the suspect vessel or aircraft proceed towards a Member State's jurisdictional waters after the pursuit has commenced outside that State's territory, pursuit may continue to interception provided the vessel is outside the territorial limits of that State. In such cases, when the offence is committed on board the vessel of a State which has granted permission to another State to intercept and seize said vessel, the flag State of the vessel shall have preminent jurisdiction over the accused and any confiscated items and substances, unless it waives said jurisdiction. No action may be taken against the intercepted vessel without the express consent of the flag State. In situations where such consent is impossible to obtain or is not permitted by the laws of the flag State, the vessel must turn itself over to the authorities of the flag State.

During any vessel pursuit outside of jurisdictional waters, due regard shall be given to the safety of shipping, offshore installations and other vessels in the vicinity. The use of disabling fire should be restricted until clear conditions exist.

If a suspect vessel enters a busy traffic zone outside of jurisdictional waters pursuit should be broken off and handed off to the nearest local authorities.

If that State chooses to dispatch an asset to the scene, a handover of the pursuit of the suspect should be effected.

Impromptu Requests from Member States

In the event that a Member State acquires information of a drug trafficking activity either about to enter or leave its territory and it is aware that a law enforcement asset of another Member State is in the vicinity a request may be made to that asset directly through the National Competent Authority for assistance but must be copied to its Command. The signal should include but not be limited to:

- Type of assistance required
- Vessel type
- Vessel name/number
- Nationality.
- Vessel position or route
- Suspected activity
- Type of drug/quantity
- Number of people onboard
- Known/suspected weapons or special risk onboard
- Contact details of any other responding agencies or assets
- Any other relevant information

The asset shall then respond by advising on whether it is able to assist within its capability (current mission requirements, endurance, flight time, weather or other limitations).

A Member State may receive information of an impending trans-jurisdictional maritime drug transaction and initiate an unplanned operation with assets of another Member State within its borders or in its jurisdictional waters.

If an encounter of the suspect vessel by the asset of the other State is made outside the requesting Coastal State's jurisdictional waters and evidence of illicit narcotics are discovered, then the law enforcement asset may deal with the subject in accordance with the terms of existing agreements, and shall turn over the vessel, all confiscated properties and substances, and any persons detained to the requesting Coastal State.

At any point during such an operation should it appear to the on scene commander that the operation may extend into the jurisdictional waters of another neighbouring Member State, he must inform the neighbouring Member State, through the appropriate channels, of the likelihood of any possible

actions, the identities of the assets involved, the exchange of guard frequencies, and any specific requirements of that State.

In the event the encounter is made within the requesting Coastal State's jurisdictional waters, after the vessel is stopped and boarded with the authority of said State, if evidence of illicit cargo is found, the vessel and its contents are to be handed to the local authorities.

II. COOPERATIVE PROCEDURES

PURPOSE

The purpose of these procedures is to facilitate the planning of cooperative counterdrug operations, and to coordinate an effective response to situations of an unplanned nature, such as the detection of targets of mutual interest and violation of law as stipulated under International Conventions, Treaties, Bilateral /Multilateral Agreements and National Legislation.

States should, in keeping with international agreements and approached, ensure that their relevant National Authority is properly manned 24 hours / 7 days a week and has the capacity to communicate with Member States on the specified channels as agreed and also communicate with all of their local law enforcement agencies.

The appropriate National Authority must have all relevant information of ongoing local law enforcement activity so that they may advise responding assets of other Member States.

TRAINING AND EXERCISES

States are encouraged to engage in training and exercises in order to ensure preparedness for operations and to improve procedures. The results of these exercises and lessons learnt should be shared with other Member States in order to develop a best practices guide.

LOGISTICAL / TECHNICAL SUPPORT

During Combined Counterdrug Operations arrangements should be made to facilitate support to participating States by the host State, to the extent permitted by its domestic laws and in accordance with the procedures contained therein.

Access to emergency medical treatment in cases requiring such should be facilitated and given the highest priority at the closest suitable facility.

Member States should facilitate effective coordination between their law enforcement authorities and promote the exchange of law enforcement officials and other experts, in accordance with their domestic law, including the posting of liaison officers.

Member should assist one another to plan and implement training of law enforcement officials in the conduct of maritime law enforcement operations, including combined operations and boarding, searching and detention of vessels in accordance with their domestic laws.

DESIGNATION OF ON-SCENE COMMANDER

In all situations involving Joint or Combined Counterdrug Operations, an On-Scene Commander/Coordinator should be appointed. This is for on-scene coordination purposes only, and has no sovereignty implications. In most instances this falls to the host country. Designation of an On-Scene commander should be done as soon as possible, and all parties should be aware of the designation. The selection of the On-Scene commander should be carried out with consideration to but not contingent on the following:

- Jurisdictional Authority of the host country
- Endurance
- Communications Capability

ACTION PLAN

A well defined Action Plan should be laid out by member states participating in Joint or Combined Operations. Action Plans should be developed taking all resources into account. An action plan may include:

- An Operations Order when applicable.
- Joint review of intelligence / information.
- Aircraft coordination.
- Personnel exchange.
- Reporting requirements.
- Rendezvous times.
- Command & Control.
- Definition of use of force
- Definition of rules of engagement

USE OF FORCE / RULES OF ENGAGEMENT

Member States should adopt and implement rules and regulations regarding the use of force and firearms *respecting the sovereignty and the internal legal system of each state* and in observance of human rights. State officials need to

be fully aware of their regulations and responsibilities, as well as those of all States involved in any Joint or Combined Operation. Member States should exchange their regulations with respect to the use of force and rules of engagement when involved in law enforcement activities.

Thresholds or limits for the use of force vary from country to country. Prior to commencement of an operation, all participating States shall agree on the Use of Force and Rules of Engagement. The following guidelines are recommended for law enforcement officials employed in support of counterdrug operations.

BOARDING POLICY

States must be aware of and abide by national legislation, international treaties in force, in particular the United Nations Convention of the Law of the Sea of 1982, United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 1988), and bilateral / multilateral agreements governing boardings in connection with the suppression of maritime drug trafficking involving illicit drugs and related contraband.

THE USE OF FORCE AND FIREARMS BY BOARDING OFFICERS

The use of force and firearms by boarding officers is primarily regulated by national law, as well as by a number of international instruments. States participating in combined operations need to first define when, under what circumstances and to what extent force and firearms will be used in boarding operations. Boarding officers need to be thoroughly familiar with the domestic laws in this regard of the jurisdiction where the operation is taking place as well as the details of the plan for using force and firearms in the operation in question.

Nothing in this guide should be construed to limit boardings of vessels, conducted by any Party in accordance with international law, seaward of any State's territorial sea, whether based, inter alia,

- on the right of visit,
- the rendering of assistance to persons, vessels and property in distress or peril,
- the consent of the vessel master, or
- an authorization from the flag State to take law enforcement action.

LAW ENFORCEMENT ACTION

a) Action Request

States need to make a formal request for cooperation and law enforcement action from another Member State through that State's relevant Competent Authority. The type of action being requested needs to be clearly stated and agreed by all involved States prior to commencing any action.

b) Briefing: Intelligence / Information

Requesting States must share all pertinent information concerning a proposed operation. A line of communication needs to be established to ensure the immediate flow of information between all involved States. Important details may include:

- Vessel name/number
- Vessel/ type
- Nationality
- Vessel/ position
- Suspected activity
- Type of drug/quantity
- Number of people onboard
- Known/suspected weapons onboard.

c) Objective of Operation

States need to have concise and clear objectives; this must be articulated to all involved. States need to establish exactly how the objectives will be accomplished, and include this information in the Operational Plan.

d) Operational Plan

An Operational Plan must be developed in consultation with all involved States, and if possible an Operations Order published and distributed. The Operational Plan is a detailed written plan that identifies the objective(s) of the operation, and how the objective(s) will be met. The Operational Plan will include the Roles and Responsibilities of all parties.

e) Evidence Gathering / Evidence Seizure / Evidence Handling

States need to be cognizant of legal requirements/procedures of their State and of other States involved in the operation; in order to preserve evidence and the chain of custody of such evidence.

Prior to commencement of an operation, all involved States need to agree upon the following:

- § What evidence is being sought

- § Who will seize the evidence
- § How evidence will be handled and stored
- § Where it will be stored
- § How evidence will be inventoried
- § If evidence can be turned over to another jurisdiction
- § Other legal issues

This information should be included in the operations order.

f) Arrest / Prosecution

The parties in the combined operation must know which entities in each have arrest and prosecutorial powers. Such parties must agree upon arrest actions and jurisdiction for prosecution prior to the operation, specifying the following:.

- § Who will be responsible for conducting arrest
- § Who will secure prisoners
- § Who will prosecute
- § Where prisoners will be secured

In the event that prisoners are of nationalities other than the participating parties, their countries should be promptly informed through their diplomatic representatives.

g) Liaison Officers

When possible, Member States should identify liaison officers to be on-sight during an operation to assist with ensuring proper flow of intelligence/information.

h) Report of Action taken

Detailed reports of any enforcement actions taken should be completed in as much detail as possible and provided to other involved Member States.

Prior to commencement of an operation, States need to agree upon a reporting procedure of this Report of Action which may include:

- § Who is responsible for completing the report
- § What format should the report take
- § What details need to be included in the report
- § Who will receive the report

COMMUNICATIONS PROCEDURES

Communications plans should be agreed upon by participating countries and should include all necessary protocols for effective communications. Established protocols should include, but not be limited to:

- § Communication security/operational security.
- § Compatible methods of communications.
- § Establish agreed codes/geographical points/actions.

DEBRIEFING

States are encouraged to conduct debriefings after each operation to assess:

- § Actions taken
- § Information/Intelligence
- § Logistical issues
- § Legal issues
- § Best practices/failures
- § Recommendations for procedural improvement
- § Other relevant details

A report should be generated from these debriefings, and shared with all States involved in the operation. Recommendations on how to improve operations should be implemented.