

# ORGANIZATION OF AMERICAN STATES



INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION

cicad

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Experts Group Concerning  
Chemical Substances

**EXPERT GROUP CONCERNING  
CHEMICAL SUBSTANCES  
August 27-29, 2003  
Brasilia, Brazil**

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**FINAL REPORT**

**Preliminary Version**

## **I. BACKGROUND**

During the Thirty-second Regular Session of CICAD held in Mexico City, Mexico, December 2-5, 2002, the Commission directed that Expert Group on Chemicals meet to examine the issue of chemical control, and make recommendations thereon to the Commission.

CICAD's Expert Group on Chemicals subsequently met from Aug 27-29, 2003 in Brasilia, Brazil.

## **II. PROCEEDINGS**

### **A. PARTICIPANTS**

#### **1. MEMBER STATES OF CICAD**

Forty-eight experts from the following member states participated in this meeting: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Dominican Republic, Mexico, Peru, United States, Uruguay and Venezuela. (Directory of Experts attached).

### **B. SESSIONS AND ORGANIZATION OF THE MEETING**

#### **1. OPENING SESSION**

A joint opening session for this expert group meeting and the one on pharmaceutical products took place at 9:30 a.m. on August 25 in the Carlton Hotel in Brasilia. The following individuals offered opening remarks:

- José Augusto de Barros, Sub Secretário Nacional Antidrogas
- Delegado Zulmar Pimental Dos Santos, Department of the Federal Police
- Mr. Cláudio Maierovitch Pessanha Henriques, Health Ministry
- Ministro Marcos Vinicius Pinta Gama, Foreign Ministry
- Delegado Ronaldo Urbano, President of the meeting of the Expert Group on Chemical Substances
- Mr. Paulo Morais Santa Rosa, President of the meeting of the Expert Group on Pharmaceutical Products
- Ziggie Malyniwsky, Chief of the Supply Reduction and Control Section, OAS/CICAD

## 2. WORKING SESSIONS

The Group of Experts on Chemical Substances met during four working sessions to analyze measures to improve control over diversion and abuse of chemical products. The group examined the recommendations concerning chemical substances found in the Hemispheric Report of the Multilateral Evaluation Mechanism (MEM) as well as the possible issues for consideration identified by the Commission during its XXXII regular session in Mexico City (December 2002) and other issues of concern.

To supplement and support the discussions, the Expert Group received the following presentations:

- Presentation by the delegation of Brazil concerning the national chemical control system that is currently being developed and implemented in Brazil.
- Presentation by the delegation of Colombia on the environmental impacts of illicit drug production and by the chemicals used to produce them
- Presentation by the US delegation concerning the Cocaine Identification Program being delivered by the US Drug Enforcement Administration (DEA)

### A. MEM Hemispheric recommendations:

#### **9. Determine the best mechanisms to optimize the use of “pre-export notifications” to foster international cooperation and strengthen the monitoring of controlled chemical substances.**

The members of the expert group reaffirmed the important role that the “Pre-Export Notification” (PEN) process plays in minimizing the diversion of chemical products. Responsibility for the effective implementation of the process is shared between the exporting and importing countries. The experts underlined that effective implementation of the PEN process depends on the political will of the countries that drives the establishment of necessary communication, cooperation and operational procedures to make it happen.

Countries face many challenges and impediments in implementing this process in an efficient and effective manner. Several of these challenges are related to problems of communication. This includes problems related to the timeliness of the notification, the means by which it was sent (regular mail rather than fax or email), misdirection of PEN's and miscommunication between agencies within a country receiving these notifications. Exporting countries frequently find that contact information for PEN's and for other operational purposes is not readily available, or is incorrect or incomplete.

In some instances countries encounter problems when they do not receive a reply to their PEN. In these cases it is not clear if this silence is a sign of no objection or if the notification was just not received or acted upon. Under these circumstances, exporting countries are concerned about holding back a shipment based on this silence in that

this decision may have economic implications that may lead to financial, legal or other potential repercussions. While a response to all PEN's would be desirable, this seems to present logistical and operational challenges for some countries. At the same time there is a need to find a means to ensure that PEN's have at least been received.

The Executive Secretariat reported on a meeting to take place in Valencia, Spain during the week of October 6. This is a meeting organized by Spain's National Antidrug Plan for the European Commission concerning the diversion of chemicals. Working with CICAD, the Spain's National Plan has agreed to add a session at the end of this meeting that will focus on impediments to effectively implementing the PEN process. During this session, representatives from European countries and representatives of the Americas (Argentina, Brazil, Canada, Colombia, Costa Rica, Ecuador, Mexico, Panama, Peru, Trinidad and Tobago, the United States and Venezuela) will have the opportunity to identify problems and impediments to the effective implementation of the PEN process and to develop strategies to address these impediments. The outcome of this discussion will serve to respond to the concerns expressed by this MEM recommendation.

**In addition to the foregoing, the Experts propose the following actions:**

- the Executive Secretariat should establish a space dedicated to chemical control in the Supply Reduction and Control Section's portion of the CICAD web page to include the following:
  - a directory of operational points of contact including those responsible for receiving PEN's and those responsible for responding to these notifications (the Executive Secretariat should examine existing directories of this nature maintained by other groups or organizations, including the Andean Group and Mercosur)
  - a directory of official Competent Authorities for chemical control in CICAD member states, either extracted from the directory maintained by the International Narcotics Control Board (INCB) or through a link to an existing electronic directory maintained by this organization
  - electronic copies of the PEN forms
- propose that Uruguay coordinate the implementation of a pilot project in which participating countries (Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay and Uruguay), will acknowledge receipt of all PEN's. Working with the Executive Secretariat, the coordinators in Uruguay will define the terms of the pilot and the measures and indicators that will be used to evaluate it.

**The Experts also offer the following recommendation:**

- the Commission should encourage member states to examine the procedures that they have in place to deal with PEN's, with particular focus on the links between those

agencies receiving the notifications and the operational areas responsible for investigating or otherwise taking action to confirm that the transaction is acceptable.

**10. Implement a hemispheric communication and coordination system in order to improve and facilitate cooperation and coordination among member states on matters related to control of pharmaceutical products and controlled chemical substances at the national and international levels.**

In considering how this hemispheric recommendation might be implemented or addressed, the Experts were not clear as to what was intended by the authors. The recommendation speaks to the need to “implement a hemispheric communication and coordination system”. The term “system” is not defined and is subject to many interpretations.

The Experts agreed that the effective control of chemical substances depends on open communication and close coordination of action among the various agencies, ministries or other entities involved at the national (inter-agency) and international levels. It is also important to ensure a close working relationship between government and the private sector in order to further enhance these controls and minimize diversion.

Having said that, the Experts agreed that there exist sufficient, potentially effective mechanisms and examples of “best practices” to facilitate communication among the these various entities. As such, the Experts do not see the need to establish a “hemispheric communication and coordination system”. This was also the view of members of the Expert Group on Pharmaceutical Substances when they considered this same recommendation during their meeting.

Instead, the Experts proposed that it is more appropriate to focus on the tools and mechanisms that already exist that can serve to promote and facilitate communication and coordination. The Expert Group itself is in fact one mechanism through which this can be promoted and, to a certain extent, achieved. Similarly, the introduction of the National Drug Control System (NDS) is an essential element of national systems to control chemicals and pharmaceuticals.

**The Experts propose the following actions:**

- the implementation by the Executive Secretariat of the web-based reference tools (directories) identified as actions in response to MEM Recommendation #9
- The Executive Secretariat should work with the INCB to develop and execute a plan of action for the expanded implementation of NDS in interested CICAD member states
- members of the expert group should review existing best practices for communication and coordination (Inter-sectoral, inter-agency, international) for discussion during the next expert group meeting leading to the development of a reference paper of best practices in this regard.

**The Experts also offer the following recommendation:**

- the Commission direct that the Expert Group on Chemical Substances meet on a regular basis and serve as an on-going forum to promote communication and coordination and to address issues of concern to member states regarding the control of chemical substances

**B. OTHER ISSUES**

During the XXXII regular session of CICAD held in Mexico City in December 2002, the Commission considered a list of possible issues (copy attached) that the Experts might examine during their meeting. This served as a point of departure for discussion by the Experts and was expanded to include other issues they identified during the discussion that took place at this meeting. The issues and subsequent actions and recommendations have been organized into the following categories:

- Legislative and Regulatory Framework
- Mechanisms for Monitoring and Control
- Communication and Coordination
- Information
- Training

**Legislative and Regulatory Framework**

The establishment of a comprehensive legislative and regulatory framework is essential to an effective system of controls over chemical substances. As verified by the MEM process, legislation and regulations in some member states are outdated, lack the appropriate powers and authorities, lack sufficient sanctions or otherwise fail to provide the foundation necessary for chemical control. While national legislation and regulations that countries implement and the chemicals they control reflect national concerns and priorities, these differences provide unintended opportunities for the diversion of chemicals. In some instances, agencies responsible for the control of chemicals are not aware of the controls that exist in neighboring countries or those with which there is a trade in chemical products. While having harmonized regulations and a common list of chemicals to be controlled would be ideal, this would be extremely difficult to accomplish given the different needs and concerns that exist in each country. As such, the Experts recognized the need to seek other means to address the challenges and potential problems created by these differences.

**The Experts propose the following actions:**

- the Executive Secretariat should include the Model Regulations in the chemical control section of the web page, referenced above

- the Executive Secretariat should also include the following:
  - a table of chemicals controlled by CICAD member states
  - links to web pages maintained by member states that contain their national chemical control legislation and regulations and, where this does not exist, the name and contact information of a person that interested parties can consult to obtain information regarding the chemical control legislation or regulations

**The Experts also offer the following recommendations:**

- the Commission encourage member states to review and update their national chemical control legislation and regulations and to follow-up implementation of this review through the MEM process
- the Commission encourage member states to advise the Executive Secretariat of any changes in its national chemical control legislation, regulations or the list of chemicals that it controls, which the Executive Secretariat will then share with member states

**Mechanisms for Monitoring and Control**

As with chemical control legislation, the MEM identified the need for many countries to review and strengthen their administrative procedures and mechanism for the control of chemicals. The MEM also highlighted the fact that most countries did not have a means to assess the effectiveness of their control system.

The Experts highlighted the need for national controls to respond to domestic conditions and circumstances. At the same time there is a need for some level of consistency particularly when dealing with the identification of chemicals. In this regard, problems have arisen for Customs and other officers over differences in the codes used to identify chemicals on forms, documents and packing labels. The Experts underlined the need for a common system for this purpose as noted in the CICAD Model Regulations. There is, however, a need to provide for greater specificity in this number for purposes of clearly identifying a substance being shipped, imported, exported or otherwise used. The World Customs Organization (WCO), is currently examining this issue.

The Experts also emphasized the importance for all affected parties to work together in partnership. This includes the private sector such as the chemical control industry and related non-governmental elements. It is also important to ensure that those in the private sector are aware of their responsibilities, the needs of the control agencies and controls systems in place and the role that they can play in minimizing the diversion of illicit drugs.

Similarly, international organizations are actively working in support of chemical control and related areas from which we can learn and with which CICAD should work.

### **The Experts propose the following actions:**

- the Executive Secretariat should establish a section in the chemical control web page with links to national web pages containing manuals and other technical reference documents and tools regarding control systems, the role of industry, etc.
- the Executive Secretariat should consult with the WCO regarding its work in developing a more specific chemical numbering system and other initiatives of interest related to the control of chemicals
- propose that Colombia prepare a paper for presentation at the next Expert Group meeting concerning product codes used to identify chemicals

### **The Experts also offer the following recommendations:**

- the Commission encourage member states to review and update the administrative procedures, mechanisms and systems that they have in place for the control of chemicals and to follow-up implementation of this review through the MEM process
- the Commission consider the expansion of the MEM indicators on the effectiveness of chemical control systems to include specific elements or mechanisms that might be included in such an evaluation

### **Information**

The Experts highlighted the importance of gathering and exchanging information regarding all aspects of chemical control and the use of chemicals in the manufacture of illicit drugs. As controls are applied, narcotraffickers change techniques and employ alternate substances in the production process. Information concerning these developments is critical if countries are to act in a proactive rather than reactive manner. Similarly, countries can benefit from the experiences of others in the control area and learn from the tools and resources that they have developed to facilitate and enhance the work of their control officers. In this regard the Executive Secretariat created a manual concerning the control of chemicals that included several sections on the production of illicit drugs, details of the chemicals used and information on officer safety. Colombia has prepared a similar manual. Other countries have also prepared technical reference manuals concerning other aspects of chemical control.

### **The Experts propose the following actions:**

- the Executive Secretariat should establish a section in the chemical control web page with links to national web pages containing manuals and other technical reference documents and tools

### **The Experts also offer the following recommendation:**

- the Commission encourage member states to share and exchange information with other member states regarding developments and changes they identify in the

procedures and chemicals used to produce illicit drugs. Given the sensitivity of this information, the Experts do not recommend using the web page to post or share this information. The recommendation is that member states communicate this information to the Executive Secretariat and directly to appropriate agencies and points of operational contact in member states using the directories mentioned above.

## **Training**

Officers involved in the control of chemicals must be knowledgeable and have the skills necessary to execute their responsibilities. CICAD and other agencies and international organizations currently deliver a variety of training for this purpose. This training should respond to evolving trends and new threats that have been identified such as the expanded production and use of synthetic drugs in the Americas. In the case of synthetic drugs, the Experts identified a particular need for training and other activities in the areas of prevention and treatment, information development and enforcement and control.

### **The Experts propose the following actions:**

- the Executive Secretariat to examine the feasibility of expanding the CICAD calendar of activities to including information about training seminars related to chemical control and other enforcement-related issues

### **The Experts also offer the following recommendation:**

- the Commission direct the Executive Secretariat to develop and implement a multi-sectoral project within CICAD to deal with the evolving problem of synthetic drugs that touches on the following:
  - enhance the capacity of CICAD and its member states to gather and analyze epidemiological and other information concerning synthetic drugs (CICAD Observatory)
  - enhance the capacity of member states in the area of prevention and treatment concerning synthetic drugs (Demand Reduction Section)
  - enhance the knowledge and skills of law enforcement, Customs and other personnel regarding the monitoring, control and investigation of synthetic drugs and the chemicals used to produce them as well as related issues of officer safety (Supply Reduction and Control Section)
- the Commission direct the Executive Secretariat to expand its training program for administrative and enforcement personnel responsible for the control of chemical substances and in doing so:
  - continue to draw on expertise within and outside of the Americas to deliver the training seminars
  - use sub-regional seminars to promote knowledge building and operational cooperation

- ensure the largest participation possible
- explore innovative means such as video conferencing to deliver the program to the largest number of people possible

### **C. GENERAL ISSUES**

The Experts Groups on Chemical Substances and Pharmaceutical Products engaged in very active discussion of the challenges faced by CICAD member states in effectively monitoring and controlling chemical substances and pharmaceutical products. In doing so, the Experts gave careful consideration as to what it could do as a group, what the member states might do and how the Commission might facilitate this.

During their discussions the Experts noted that the success of the group in large part depended on the qualifications of country representatives sent to be part of the group and their level of participation. The participants must in fact be technical experts in the field in question. There must also be a level of consistency in participation from one meeting to another. In this way, the group can focus its discussion and limit the need to revisit issues already discussed, agreed upon or resolved. Finally the Experts must come prepared to work, having received and reviewed the documents related to the meeting. Frequently, this does not happen. Either participants have not received the documents or have chosen not to review them until they have arrived at the meeting. With regard to the distribution of documents, the Executive Secretariat does everything it can to ensure that these documents reach the participants. In doing so, the Executive Secretariat distributes copies to the Permanent Missions to the OAS in Washington, to the Commissions in each member state and once identified, to the individual country representatives that will participate in the meeting. The Executive Secretariat maintains a record of when these documents were delivered and received. Frequently the Executive Secretariat is requested to resend the documents. In some instances it is determined that fax numbers and email addresses have changed without notice and in other instances, documents seem to have otherwise been misplaced or for other reasons failed to make the journey to the person or persons who require them for the meeting in question.

Further to the discussions that take place during the meetings, this and other expert groups develop a plan of action and a number of recommendations for the consideration of the Commission. In some instances the plan of action requires the Executive Secretariat to undertake certain activities that require input from the member states. The request for information or input is then sent to the member states through the mechanism described above. This same process is followed when organizing a meeting or training seminar in which names of experts or participants are requested. In some instances the Executive Secretariat receives the requested information and in others there is no response. The reasons for this are unclear.

In the end, these problems and issues affect the quality of the meetings, seminars and efforts to gather information.

### **The Experts offer the following recommendations:**

- the Commission remind member states of the need to carefully select their country representatives with consideration to the nature of the meeting in question
- the Commission encourage member states to respond to requests from the Executive Secretariat in a timely manner
- the Commission request that member states review the procedures for distribution of documents, invitations and other papers distributed by the Executive Secretariat to ensure that they are received by the appropriate agency or individual and are acted upon accordingly. Where necessary, member states should advise the Executive Secretariat of any changes in contact information (phone, fax, email) as quickly as possible, as well as of any preferences regarding receipt of documents that the Executive Secretariat distributes.

### **3. CLOSING SESSION**

The Expert Group concluded its work at 1:30 on August 29. The Chair of the Group closed the meeting.

## **III. CONCLUSIONS AND RECOMMENDATIONS OF THE GROUP OF EXPERTS**

### **RECOMMENDATIONS TO CICAD IN ITS THIRTY-FOURTH REGULAR SESSION:**

#### Recommendations to Member States:

1. That the Commission encourage member states to examine the procedures that they have in place to deal with PEN's with particular focus on the links between those agencies receiving the notifications and the operational areas responsible for investigating or otherwise taking action to confirm that the transaction is acceptable.
2. That the Commission encourage member states to review and update their national chemical control legislation and regulations and to follow-up implementation of this review through the MEM process
3. That the Commission urge member states to advise the Executive Secretariat of any changes in its national chemical control legislation, regulations or the list of

chemicals that it controls, which the Executive Secretariat will then share with member states

4. That the Commission encourage member states to review and update the administrative procedures, mechanisms and systems that they have in place for the control of chemicals and to follow-up implementation of this review through the MEM process
5. That the Commission encourage member states to share and exchange information with other member states regarding developments and changes they identify in the procedures and chemicals used to produce illicit drugs. Given the sensitivity of this information, the Experts do not recommend using the web page to post or share this information. The recommendation is that member states communicate this information to the Executive Secretariat and directly to appropriate agencies and points of operational contact in member states using the directories mentioned in the body of the report above.
6. That the Commission remind member states of the need to carefully select their country representatives with consideration to the nature of the meeting in question
7. That the Commission urge member states to respond to requests from the Executive Secretariat in a timely manner

Recommendations to the Executive Secretariat:

8. That the Commission direct the Executive Secretariat to work with member states to review the procedures used to distribute information and notices regarding meetings, seminars, and other events sent through the Permanent Missions to the OAS and the National Drug Commissions, in order to enhance the efficiency and accuracy of this distribution process and timely receipt of replies where responses or input are required from member states. The Executive Secretariat should also establish a mechanism through which member states could report changes in contact information such as names, addresses, phone numbers, fax email addresses etc.
9. That the Commission direct the Executive Secretariat to establish space dedicated to chemical control on the Supply Reduction and Control Section's portion of the CICAD web page which includes the following:
  - a directory of operational points of contact including those responsible for receiving PEN's and those responsible for responding to these notifications (the Executive Secretariat will examine existing directories of this nature maintained by other groups or organizations including the Andean Group and Mercosur)
  - a directory of official Competent Authorities for chemical control of CICAD member states, either extracted from the directory maintained by the

- International Narcotics Control Board (INCB) or through a link to an existing electronic directory maintained by this organization
- electronic copies of the PEN forms
10. That the Commission direct the Executive Secretariat to implement the web-based reference tools (directories) identified as actions in response to MEM Recommendation #9.
  11. That the Commission direct the Executive Secretariat to work with the INCB to develop and execute a plan of action for the expanded implementation of NDS in interested CICAD member states
  12. That the Commission direct the Executive Secretariat to include the Model Regulations in the chemical control section of the web page referenced above
  13. That the Commission direct the Executive Secretariat to also include the following:
    - a table of chemicals controlled by CICAD member states
    - links to web pages maintained by member states that contain their national chemical control legislation and regulations and, where this does not exist, the name and contact information of a person that interested parties can consult to obtain information regarding the chemical control legislation or regulations
  14. That the Commission direct the Executive Secretariat to establish a section in the chemical control web page with links to national web pages containing manuals and other technical reference documents and tools regarding control systems, the role of industry, etc.
  15. That the Commission direct the Executive Secretariat to consult with the WCO regarding its work in developing a more specific chemical numbering system and other initiatives of interest related to the control of chemicals.
  16. That the Commission direct the Secretariat to consider the expansion of the MEM indicators on the effectiveness of chemical control systems to include specific elements or mechanisms that might be included in such an evaluation
  17. That the Commission direct the Executive Secretariat to develop and implement a multi-sectoral project within CICAD to deal with the evolving problem of synthetic drugs
  18. That the Commission direct the Executive Secretariat to expand its training program for administrative and enforcement personnel responsible for the control of chemical substances

## Recommendations to the Expert Group:

19. That the Expert Group undertake the following tasks:

- with coordination by the representative of Uruguay implement a pilot project in which participating countries (Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru and Uruguay), will acknowledge receipt of all PEN's. Working with the Executive Secretariat, the coordinators in Uruguay should define the terms of the pilot and the measures and indicators that will be used to evaluate it.
- review existing best practices for communication and coordination (Inter-sectoral, inter-agency, international) for discussion during the next expert group meeting leading to the development of a reference paper of best practices in this regard.
- call on the representative from Colombia to prepare a paper for presentation at the next Expert Group meeting concerning product codes used to identify chemicals

20. That the Commission direct the Expert Group on Chemical Substances to meet on a regular basis and serve as an on-going forum to promote communication and coordination and to address issues of concern to member states regarding the control of chemical substances