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United States of America

INTER-AMERICAN DRUG ABUSE  
CONTROL COMMISSION

**CICAD**

Organization of American States

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Secretariat for Multidimensional Security

## **CHEMICAL DIVERSION TRAINING CURRICULUM: FOR JUDGES AND PROSECUTORS (AND POLICE)**

### **INVESTIGATING AND PROVING THE CRIME OF DIVERSION OF CHEMICAL SUBSTANCES**

#### **Objectives**

To develop theoretical and practical training for judges and prosecutors) [and police] using a presentation and workshop format with the goal of giving tools for investigation and proof of the diversion of chemical substances. The workshop will provide participants first-hand knowledge of the main elements of the legal provisions and procedures to be followed in order to develop investigations, look for evidence, to solve practical problems and to obtain convictions and sentences. Because of the complex nature of this offense, emphasis is placed on the effective use of specialized investigative techniques.

#### **Beneficiaries**

- Judges
- Prosecutors
- Optional attendance: Police officers.

#### **Instructors**

Legal portions

- § Judges
- § Prosecutors
- § Officials of control agencies
- § Other experts

Practical portion

- § Expert police agents
- § Officials of control agencies
- § Other experts

#### **Methodology and Concept**

This seminar is designed to be offered either in one country at a time or on a sub-regional basis. The course content and methods of presentation could be

adjusted accordingly. National, international and CICAD personnel would present the material.

## **AGENDA**

### **Opening Session**

Opening remarks (local, national and international officials)

Introduction of participants and presenters

### **Substantive Sessions**

#### **1. The problem**

- Why are we here? The diversion of chemical substances worldwide and the relation to narco-trafficking
- Regional situation regarding the diversion of chemical substances

#### **2. Methods of illicit drug manufacture**

- § Plant-based drugs and Synthetic drugs (emphasis based on regional situation)
- § Dangers of clandestine drug production [to community, workers, environment]

#### **3. Legal framework**

- § International legal framework, including 1988 UN Convention (Vienna) and OAS-CICAD Model Regulations
- § National laws and regulations -- administrative and legal aspects
- § Lists of regulated chemicals – licit and illicit uses

#### **4. Investigation and prosecution**

- § Distinguishing licit commerce from criminal activity
- § Methods of precursor chemical diversion
- § Legal and practical aspects of inspections, interviews and investigations
- § Special investigative techniques -- Undercover operations (agents and informants) and controlled deliveries
  - Principal legal issues; 1988 UN Convention (Article 11); authorization under national law; supervision; limitations
  - Principal practical and operational aspects; problems encountered
  - Presentation of a practical case [use actual closed case if possible]

#### **5. Proof of case**

- § Documentary evidence
  - Commercial documents, invoices, Customs documents and other business records
  - Official authorizing documents: licenses, registrations and permits
- n Physical evidence: Drums and other shipping and storage containers; labels
- n Circumstantial evidence – possible exceptions to exclusion of evidence
- n Witnesses
  - Company executives and employees; competitors
  - Government agents – undercover police and citizen informants
  - Experts – industry analysts, trade association officials
  - Others who can help prove case

## 6. Defenses

- Neutral acts by innocent persons (“I’m just a businessman”) versus acts by persons who are suspected of intending to commit crime
- The issue of entrapment
- Concepts of intent and culpability
  - Knowledge, intentional ignorance, inexcusable negligence, etc.(see Article 37 of CICAD Model Regulations)
- n Other defenses

## 7. Penalty aspects

- § Administrative and civil penalties (revocation of license or fine)
- § Criminal penalties (imprisonment)

## 8. Case studies

Distribute narrative of each case; students break into small groups

§ Case study #1

§ Case study #2

§ Case study #3

(Note: If two or more case studies are given, at least one should involve a legitimate transaction.)

## Concluding Session

Open Forum: Comments, questions and suggestions by students to presenters

Concluding remarks by presenters

Award of certificates

Reception