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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



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## **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**



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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.



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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**



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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 is 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.



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## **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.



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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;



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- § 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



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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;



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- 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.



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## 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	<p>Receives the following original documents plus two copies from the user:</p> <ul style="list-style-type: none"> <li>• Pre-importation health permit</li> <li>• Commercial invoice</li> <li>• Copy of manufacturer's analysis certificate</li> <li>• Bill of lading (maritime)</li> <li>• Pro-forma customs declaration (black sheet)</li> <li>• Copy of identification documents (customs-authorized label)</li> </ul> <p>The permit must be valid at the time of submission of the documentation.</p>
	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.



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	<ul style="list-style-type: none"> <li>- Checks the permit's validity in the NDS.</li> <li>- If not found in the NDS, contacts the Office by telephone.</li> <li>- When the permit's validity has been corroborated:</li> </ul>
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



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		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 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"> <li>• Pre-importation health advice</li> <li>• Commercial invoice</li> <li>• Pro-forma customs declaration (black sheet)</li> <li>• Bill of lading (maritime) or letter of carriage (land), or air waybill, as applies, and</li> <li>• Copy of identification documents (customs-authorized label)</li> </ul>
	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	Checks whether the amounts indicated on the advice are within those included in the quantities agreement.



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		<ul style="list-style-type: none"> <li>• Checks the permit's validity in the NDS.</li> <li>• If not found in the NDS, contacts the Office by telephone.</li> <li>• When the permit's validity has been established:</li> </ul>
	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.
ser	14	Note: If as a result of activating the automatic selection mechanism, the user is subject to customs inspection, the



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		corresponding customs office may request support from COFEPRIS personnel.
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### 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"> <li>• Pre-exportation health permit</li> <li>• Commercial invoice</li> <li>• Pro-forma customs declaration (black sheet)</li> <li>• Copy of identification documents (customs-authorized label)</li> </ul>
	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	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



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	<p>expiration date.</p> <ul style="list-style-type: none"> <li>• Checks the permit's validity in the NDS.</li> <li>• If not found in the NDS, contacts the Office by telephone.</li> <li>• When the permit's validity has been corroborated:</li> </ul>
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.
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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"> <li>• Pre-exportation health advice</li> <li>• Commercial invoice</li> <li>• Article 23, duly numbered</li> <li>• Pro-forma customs declaration (black sheet)</li> <li>• Copy of identification documents (label authorized by customs or the IFE)</li> </ul>
	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



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		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"> <li>• Checks the permit's validity in the NDS.</li> <li>• If not found in the NDS, contacts the Office by telephone.</li> <li>• When the permit's validity has been established:</li> </ul>
	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.
ier	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



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		COFEPRIS personnel.
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## **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.



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**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.



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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.



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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



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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.



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**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.



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**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.



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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