



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative texts*

TAJIKISTAN

Communicated by the Government of Tajikistan

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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*Note by the Secretariat: These documents are a direct reproduction of the texts communicated to the Secretariat.

CUSTOMS CODE OF THE REPUBLIC OF TAJIKISTAN

Section I

General provisions

CHAPTER 1

Customs arrangements in the Republic of Tajikistan

[...]

Article 10. Basic functions of the customs authorities of the Republic of Tajikistan

The customs authorities of the Republic of Tajikistan shall perform the following basic functions:

- (1) They shall participate in the formulation of the customs policy of the Republic of Tajikistan and implement that policy;
- (2) They shall ensure compliance with legislation where they are responsible for verifying that the legislation in question is being implemented, and they shall take measures to protect the rights and interests of citizens, enterprises, institutions and organizations when customs operations are being conducted;
- (3) They shall ensure, within their area of competence, the economic security of the Republic of Tajikistan, which is the economic basis for Tajikistan's sovereignty;
- (4) They shall protect the economic interests of the Republic of Tajikistan;
- (5) They shall apply the mechanisms for the customs-based regulation of commercial and economic relations;
- (6) They shall levy customs duties, taxes and other customs dues;
- (7) They shall participate in the development of economic policy measures relating to goods moving across the customs frontier of the Republic of Tajikistan and apply those measures;
- (8) They shall ensure compliance with the regime for authorizing the movement of goods and means of transport across the customs frontier of the Republic of Tajikistan;
- (9) They shall combat smuggling and violations of the customs regulations and the taxation laws relating to goods moving across the customs frontier of the Republic of Tajikistan, prevent illicit trafficking across Tajikistan's customs frontier in narcotic and psychotropic substances, weapons, works of artistic, historical and archaeological importance for the peoples of the Republic of Tajikistan and other countries, items of intellectual property, animals and plants belonging to endangered species (including parts and derivatives thereof) and other items, and they shall cooperate in combating international terrorism and preventing illegal interference in international civil aviation activities at airports of the Republic of Tajikistan;
- (10) They shall carry out customs control and clearance operations and introduce improvements designed to facilitate trade across the customs frontier of the Republic of Tajikistan;
- (11) They shall maintain customs statistics relating to foreign trade and the special customs statistics of the Republic of Tajikistan;
- (12) They shall maintain records relating to foreign trade in different commodities;

(13) They shall help to strengthen the foreign trade links of Tajikistan's various regions and also of enterprises, institutions, organizations and private citizens;

(14) They shall cooperate in taking measures to protect national security, public order, public morals and public health and safety, to protect animals, plants and the environment and to protect domestic consumers of imported goods;

(15) They shall check on the export of strategic materials and of other materials vitally important for the interests of the Republic of Tajikistan;

(16) They shall implement currency controls within their area of competence;

(17) They shall fulfil the international obligations of the Republic of Tajikistan in customs matters, participate in the drafting of international agreements of the Republic of Tajikistan relating to customs matters, and cooperate with the customs and other relevant authorities of other States and with international organizations concerned with customs matters;

(18) They shall carry out research and provide advice relating to customs matters and organize the training, retraining and further training of personnel working for governmental bodies and for various enterprises, institutions and organizations;

(19) They shall provide—in accordance with established criteria—information on customs matters to the Majlisi Oli [the National Assembly], the President of the Republic, the Government and various governmental bodies, and various enterprises, institutions and organizations; and

(20) They shall pursue a comprehensive finance and housekeeping policy, develop their material and human resource base and create appropriate working conditions for their employees.

[...]

Section II

Transfer of goods and means of transport across the customs frontier of the Republic of Tajikistan. Customs regimes

[...]

CHAPTER 3

Article 21. Restrictions on the import into and the export from the Republic of Tajikistan of goods and means of transport

The import into and the export from the Republic of Tajikistan of goods and means of transport may, in accordance with laws and international agreements of the Republic of Tajikistan, be subjected to restrictions relating to economic policy considerations, the fulfilment of international obligations of the Republic of Tajikistan, protection of the economic basis for the sovereignty of the Republic of Tajikistan or protection of the internal consumer market or imposed in response to actions of foreign States or groups of foreign States discriminating against or otherwise damaging the interests of nationals of the Republic of Tajikistan or for other important reasons.

When such restrictions are imposed, the goods and means of transport subject to them shall be released by the customs authorities of the Republic of Tajikistan only if the requirements specified in the laws and international agreements of the Republic of Tajikistan are met.

The laws of the Republic of Tajikistan imposing the restrictions referred to in the first paragraph of this article shall be published officially not later than ten days before their entry into force, except for those laws of the Republic of Tajikistan for whose entry in force other procedures are foreseen.

Expenses incurred by private persons transferring goods and by commercial carriers as a result of the introduction of such restrictions shall not be refunded by governmental agencies of the Republic of Tajikistan.

[...]

CHAPTER 26

Declarations

Article 168. The declaring of goods and means of transport

Goods and means of transport being transferred across the customs frontier of the Republic of Tajikistan, goods and means of transport for which the customs regime is changing and, in circumstances specified by laws of the Republic of Tajikistan, also other goods and means of transport must be declared to a customs office of the Republic of Tajikistan.

Article 169. Declaration procedures

Declarations shall be made through the submission in an approved manner (in writing, orally, electronically etc.) of exact information about the goods and means of transport and about the customs regime which applies and other information necessary for customs purposes.

The declaration procedures and the information necessary for customs purposes shall be specified by the Customs Committee of the Government of the Republic of Tajikistan.

Article 170. Place of declaration

Goods shall be declared to the customs office of the Republic of Tajikistan where they undergo customs clearance.

Means of transport transferring goods shall be declared at the same time as the goods, except under the circumstances provided for in the third paragraph of this article.

River vessels and aircraft shall be declared in the port or airport of arrival within the customs territory of the Republic of Tajikistan or in the port or airport of departure from the customs territory of the Republic of Tajikistan.

Means of transport which are empty and means of transport which are carrying passengers shall be declared on crossing the customs frontier of the Republic of Tajikistan.

Article 171. Deadlines for the submission of customs declarations

Customs declarations shall be submitted within deadlines set by the Customs Committee of the Government of the Republic of Tajikistan. Such deadlines may not exceed 15 days from the date of presentation to a customs office of the Republic of Tajikistan of the goods and of the means of transport carrying the goods.

When goods are being transferred across the customs frontier of the Republic of Tajikistan not for commercial purposes by individual persons in their hand luggage or in accompanying luggage, the customs declaration shall be submitted simultaneously with the presentation of the goods.

Empty means of transport and means of transport carrying passengers which have entered the customs territory of the Republic of Tajikistan shall be declared not later than three hours after crossing the customs frontier of the Republic of Tajikistan, and such means of transport which are leaving shall be declared not later than three hours before crossing the customs frontier of the Republic of Tajikistan.

These deadlines may be extended in a manner and subject to conditions determined by the Customs Committee of the Government of the Republic of Tajikistan.

Article 172. The declarant

The person transferring the goods and means of transport or a customs broker may be the declarant.

The declarant must be a national of the Republic of Tajikistan, except where goods are being transferred across the customs frontier of the Republic of Tajikistan by individual persons not for commercial purposes and in other cases specified by the Customs Committee of the Government of the Republic of Tajikistan.

The declarant shall meet all the obligations and fully bear the responsibility provided for by this Code regardless of whether he/she is an individual person transferring goods and means of transport across the customs frontier of the Republic of Tajikistan or a customs broker.

Article 173. Obligations and rights of the declarant

When declaring goods and means of transport, the declarant must:

- make the declaration in the manner provided for by this Code;
- present the declared goods and means of transport upon demand by the customs office of the Republic of Tajikistan;
- submit to the customs office of the Republic of Tajikistan the documents and additional information necessary for customs purposes;
- pay the customs dues; and
- assist the customs authorities of the Republic of Tajikistan in carrying out the customs clearance by, inter alia, performing required loading and other operations.

Besides the other rights provided for by this Code, the declarant shall, before the submission of a customs declaration, be entitled, under customs supervision, to inspect and measure the goods and means of transport and, with the permission of the customs office of the Republic of Tajikistan, to take samples of the goods. A separate customs declaration for the samples need not be submitted if these are covered by the customs declaration submitted in respect of the goods.

Article 174. Documents and additional information necessary for customs purposes

The submission of the customs declaration must be accompanied by the presentation to the customs office of the Republic of Tajikistan of all other documents necessary for customs purposes.

The customs office of the Republic of Tajikistan shall be entitled to request additional information for the purpose of verifying the information contained in the customs declaration or the other documents presented or for other customs purposes.

The documents to be presented and the additional information to be provided shall be specified by the Customs Committee of the Government of the Republic of Tajikistan.

The customs office of the Republic of Tajikistan shall be entitled to set deadlines for the presentation of missing documents and information.

If the customs office of the Republic of Tajikistan so permits, documents may be submitted in foreign languages of which officials of the customs office have a command.

Article 175. Acceptance of customs declarations

The submitted customs declaration shall be accepted by the customs office of the Republic of Tajikistan. The customs declaration shall be accepted in accordance with procedures specified by the Customs Committee of the Government of the Republic of Tajikistan.

Upon registration of acceptance, the customs declaration shall become a document attesting to facts which have legal significance.

A customs office of the Republic of Tajikistan may not refuse to accept a customs declaration.

Article 176. Amendment, amplification and withdrawal of customs declarations

If the customs office of the Republic of Tajikistan so permits, the information in a customs declaration may be amended or amplified or the customs declaration may be withdrawn.

Amendment, amplification or withdrawal is possible only before:

- The start of verification of the customs declaration;
- The start of examination of the goods and means of transport;
- A determination by the customs office of the Republic of Tajikistan that the information in the customs declaration is false.

Amendment or amplification of the customs declaration may not broaden or narrow its scope.

Officials of the customs authorities of the Republic of Tajikistan may not—either on their own initiative or on the instructions or at the request of another person—fill in a customs declaration form or amend or amplify the information in one, except through the entering of information within the competence of the customs authorities of the Republic of Tajikistan or through the amending or amplifying of digitized information used for computer processing if there is such information in undigitized form in the customs declaration.

Article 177. Provisional or incomplete declarations

If, because of special circumstances, a declarant is unable to submit a complete declaration, the customs office of the Republic of Tajikistan may, in accordance with procedures specified by the Customs Committee of the Government of the Republic of Tajikistan, permit the submission of a provisional or incomplete customs declaration provided that the provisional or incomplete customs declaration contains the basic information necessary for customs purposes and that the missing information will be provided within deadlines set by the customs office of the Republic of Tajikistan.

Article 178. Collective customs declarations

If the same goods and means of transport are being transferred across the customs frontier of the Republic of Tajikistan regularly by one and the same person, the customs office of the Republic of Tajikistan may permit the submission of a single customs declaration covering all the goods and means of transport to be transferred within a specified time.

The circumstances warranting the submission of such a collective customs declaration and the submission procedures shall be specified by the Customs Committee of the Government of the Republic of Tajikistan.

Article 179. Simplified procedures for declaring goods and means of transport

With a view to facilitating customs clearance, the Customs Committee of the Government of the Republic of Tajikistan may establish simplified procedures for declaring goods and means of transport.

[...]

Section IX**Smuggling and other customs-related crimes****Inquiries and investigations by the customs authorities of the Republic of Tajikistan****CHAPTER 34****SMUGGLING AND OTHER CUSTOMS-RELATED CRIMES****Article 219. Smuggling**

The transfer across the customs frontier of the Republic of Tajikistan with the avoidance of or concealment from customs checks, with the fraudulent use of documents or means of customs identification or with failure to make a declaration or with the making of a false declaration

- of narcotic, psychotropic, virulent, poisonous, radioactive and explosive substances,
- of armaments, explosive devices, firearms and the associated cartridges, and ammunition (with the exception of smooth-bore hunting guns and the associated cartridges),
- of nuclear, chemical, biological and other weapons of mass destruction and materials and equipment which may be used wittingly in making such weapons,
- of strategically important materials, and
- of items of artistic, historical and archaeological importance for the peoples of the Republic of Tajikistan and other countries,

and also such transfer of other goods on a large scale with exploitation of the official position of a public servant, by a public servant exploiting his/her official position, by a person exempted from certain forms of customs control, by a person authorized to transfer across the customs frontier of the Republic of Tajikistan individual goods and means of transport exempted from certain forms of customs control or by a group of persons organized for the purpose of engaging in smuggling shall be deemed to constitute smuggling.

Failure to return to the customs territory of the Republic of Tajikistan items of artistic, historical and archaeological importance for the peoples of the Republic of Tajikistan and other countries exported from the customs territory of the Republic of Tajikistan if their return is obligatory and the transfer of goods and means of transport across the customs frontier of the Republic of Tajikistan by breaking through the customs frontier openly despite a direct prohibition by an official on the spot carrying out a customs check shall also be deemed to constitute smuggling.

Smuggling shall be punished in accordance with the criminal code of the Republic of Tajikistan.

[...]

CHAPTER 35**The customs authorities of the Republic of Tajikistan as a body responsible for conducting inquiries****Article 222. The customs authorities of the Republic of Tajikistan as a body responsible for conducting inquiries**

The customs authorities of the Republic of Tajikistan shall conduct inquiries in matters relating to smuggling, to the evasion of customs dues, to illegal currency transactions and other illegal acts involving foreign exchange with customs implications and to other offences in respect of which they have been empowered to conduct inquiries.

**Article 223. Conduct of inquiries by the customs authorities
of the Republic of Tajikistan**

When there are indications of smuggling and of other offences in respect of which the customs authorities of the Republic of Tajikistan are empowered to conduct inquiries, the customs authorities of the Republic of Tajikistan shall institute criminal proceedings and, guided by the rules governing criminal proceedings laid down in the legislation of the Republic of Tajikistan, conduct urgent inquiries with a view to finding and securing evidence of the offence and discovering the perpetrators.

CHAPTER 36

**Investigative activities of the customs authorities of the
Republic of Tajikistan**

**Article 224. The customs authorities of the Republic of Tajikistan as a body
responsible for carrying out investigative activities**

The customs authorities of the Republic of Tajikistan shall carry out investigative activities with a view to exposing persons who are preparing or committing, or who have committed, an illegal act recognized by the legislation of the Republic of Tajikistan as an offence in respect of which the customs authorities of the Republic of Tajikistan are empowered to conduct inquiries and also investigative activities at the request of international customs organizations and of customs and other relevant authorities of other States in accordance with international agreements on customs matters to which the Republic of Tajikistan is a party.

**Article 225. Conduct of investigative activities by the customs authorities
of the Republic of Tajikistan**

The customs authorities of the Republic of Tajikistan shall carry out investigative activities in accordance with the law of the Republic of Tajikistan on “Investigative activities in the Republic of Tajikistan”.

**Article 226. Investigative measures taken by the customs authorities of the
Republic of Tajikistan in order to ensure their own safety**

Investigative measures taken by the customs authorities of the Republic of Tajikistan in order to ensure their own safety shall be taken in accordance with the procedures foreseen in the legislation of the Republic of Tajikistan.

CHAPTER 37

Controlled deliveries

Article 227. Controlled deliveries of narcotic and psychotropic substances

With a view to putting a stop to illicit trafficking in narcotic and psychotropic substances and exposing the persons who engage in such trafficking, the customs authorities of the Republic of Tajikistan shall, acting in each individual case in accordance with understandings with the customs and other relevant authorities of other States or on the basis of international agreements of the Republic of Tajikistan, employ the controlled-delivery method—i.e. it shall permit, under surveillance, the import into, export from or transit through the Republic of Tajikistan of narcotic and psychotropic substances involved in illicit trafficking .

Decisions on whether to apply the controlled-delivery method shall be taken by the Customs Committee of the Government of the Republic of Tajikistan.

In the event of a decision to apply the controlled-delivery method, if the country of destination of the narcotic and psychotropic substances is a foreign State, legal proceedings shall not be instituted in the Republic of Tajikistan, but the customs office of the Republic of Tajikistan shall immediately inform an investigating magistrate in accordance with the established procedures.

Article 228. Application of the controlled-delivery method in the case of other items

The controlled-delivery method may be applied also in the case of other items—equipment or materials used or to be used in committing a crime, items acquired through criminal acts or items the illegal activities involving which constitute smuggling—with application of the procedures provided for in Article 227 of this Code.

Decisions on whether to apply the controlled-delivery method in the case of such items shall be taken by the Customs Committee of the Government of the Republic of Tajikistan, with immediate notification of the Public Prosecutor of the Republic of Tajikistan.

Article 229. Disposition of monies and property confiscated in connection with the application of the controlled-delivery method

The monies confiscated by courts of the Republic of Tajikistan and other States following crimes in whose exposure and suppression the controlled-delivery method was applied and the monies realized through the sale of confiscated property shall be distributed among the States whose customs and other relevant authorities participated in the application of the controlled-delivery method in accordance with an agreement between the Customs Committee of the Government of the Republic of Tajikistan and the competent authorities of the other States.

Section X

Violations of the customs regulations and responsibility for violating them

Proceedings in connection with violations of the customs regulations and the consideration of such violations

CHAPTER 38

General provisions

Article 230. Violations of the customs regulations

An illegal action or the illegal failure to perform an action on the part of a person infringing the rules—established by this Code, by the law of the Republic of Tajikistan “On the customs tariff”, by other legislative instruments of the Republic of Tajikistan in relation to customs matters and by the international treaties acceded to by the Republic of Tajikistan, the monitoring of whose fulfilment is the task of the customs authorities of the Republic of Tajikistan—for the transfer (including the application of customs regimes), customs inspection and customs clearance of goods and means of transport crossing the customs frontier of the Republic of Tajikistan, for the imposition and payment of customs dues and for the granting and exercising of customs privileges shall, where responsibility for it is foreseen in this Code be deemed to constitute a violation of the customs regulations.

Article 231. Responsibility of persons violating the customs regulations

In this section, “persons” means persons as defined in Article 18 of this Code and also officials, unless the provisions in this section indicate otherwise.

Persons who have violated the customs regulations shall be held responsible in accordance with this Code or, in cases not covered by it, in accordance with the legislation of the Republic of Tajikistan relating to administrative offences.

Private citizens shall be held responsible for violating the customs regulations if at the time when the offence was committed they had attained the age of 16 years.

Officials shall be held responsible for violating the customs regulations if their official duties at the time when the offence was committed included ensuring compliance with requirements established by this Code, by other legislative instruments of the Republic of Tajikistan relating to customs matters and by the international treaties acceded to by the Republic of Tajikistan, the monitoring of whose fulfilment is the task of the customs authorities of the Republic of Tajikistan.

Private citizens and officials shall be held responsible for violating the customs regulations if they have performed an illegal action or have illegally failed to perform an action with premeditation or out of negligence.

Enterprises, institutions and organizations, and also persons engaged in entrepreneurial activities without being incorporated, shall be held responsible for violating the customs regulations except in cases where the offence was a result of force majeure.

The institution of proceedings against entities of the kind indicated in the sixth paragraph of this article shall not mean the release of their officials or other employees from responsibility for the violation of the customs regulations committed by them.

The institution of criminal proceedings for smuggling and for other crimes, the conduct of inquiries into which is the task of the customs authorities of the Republic of Tajikistan against the officials and other employees of an enterprise, institution, or organization or employees of a person engaged in entrepreneurial activities without being incorporated shall not mean that the enterprise, institution, organization or person in question is released from responsibility for the violation of the customs regulations.

The imposition of sanctions for violating the customs regulations shall not mean that the persons against whom proceedings were instituted are released from the obligation to pay customs dues and meet other requirements established by this Code.

Violations of the customs regulations shall entail responsibility unless such offences, by their nature, entail criminal responsibility under the legislation of the Republic of Tajikistan.

Article 232. Responsibility of military personnel and of other persons subject to the rules of military discipline for violating the customs regulations

The personnel of the Armed Forces of the Republic of Tajikistan, the Frontier Guard, the Interior Defense Force and the other military formations provided for in the legislation of the Republic of Tajikistan, the rank-and-file and command personnel of the internal affairs organs of the Republic of Tajikistan and the organs of the Ministry for Security of the Republic of Tajikistan, and civilians summoned to attend military training exercises shall be held responsible on an equal footing for violating the customs regulations.

The military units of the Republic of Tajikistan and the other military formations of the Republic of Tajikistan having the status of juridical persons, the internal affairs organs of the Republic of Tajikistan and the organs of the Ministry for Security of the Republic of Tajikistan shall be held responsible on an equal footing for violating the customs regulations, in accordance with the procedures provided for in this Code.

Article 233. Responsibility of foreigners

Foreigners shall be held responsible for violating the customs regulations on the same footing as nationals of the Republic of Tajikistan.

Article 234. Operation of the legislation relating to violations of the customs regulations

Persons who have violated the customs regulations shall be held responsible on the basis of the legislation in force at the time of the offence.

Legal instruments mitigating or abrogating responsibility for violation of the customs regulations shall have retroactive force—i.e. shall apply also to offences committed before their promulgation.

Legal instruments establishing or reinforcing responsibility for violation of the customs regulations shall not have retroactive effect.

Proceedings relating to cases of violation of the customs regulations and the consideration of such cases shall be conducted on the basis of the legislation in force at the time when such proceedings and consideration are being conducted.

Article 235. Incapability of criminal intention

No responsibility shall attach to persons who, at the time when they violated the customs regulations, were incapable of criminal intention—i.e. could not appreciate the significance of their actions or control them owing to a chronic mental illness, a temporary mental disturbance, imbecility or some other mental disorder.

**Article 236. Factors mitigating responsibility
for violations of the customs regulations**

The following are regarded as factors mitigating responsibility for violations of the customs regulations:

1. Active cooperation in resolving the case;
2. Voluntary elimination of harmful consequences of the offence;
3. Committing of the offence under the influence of a combination of difficult personal and domestic circumstances;
4. Committing of the offence under duress or because of material dependence, dependence on a superior at work or some other form of dependence;
5. Committing of the offence by a minor, by a pregnant woman or by a woman with a child less than one year old.

Customs officials of the Republic of Tajikistan considering cases of violation of the customs regulations may also accept factors not mentioned in this article as factors mitigating responsibility.

**Article 237. Factors aggravating responsibility
for violations of the customs regulations**

The following are regarded as factors aggravating responsibility for violations of the customs regulations:

1. Continuation of the illegal behaviour despite demands by a customs official of the Republic of Tajikistan to desist;
2. Further violations of the customs regulations within a year;
3. Violations of the customs regulations by a person who has previously engaged in smuggling or in other criminal activities, the conduct of inquiries into which is the task of the customs authorities of the Republic of Tajikistan;
4. The involving of a minor in the offence;
5. Committing of the offence by a group of persons;
6. Committing of the offence during a natural calamity or in other extreme circumstances;
7. Committing of the offence in a drunken state.

Customs officials of the Republic of Tajikistan considering cases of violation of the customs regulations may, depending on the nature of the offence, decide not to regard a given factor as one which aggravates responsibility.

**Article 238. Imposition of penalties for multiple
violations of the customs regulations**

If a person commits two or more violations of the customs regulations, a penalty is imposed for each offence separately, without a less severe penalty being subsumed within a more severe one.

**Article 239. Imposition of sanctions lighter
than those foreseen by this Code**

A customs official of the Republic of Tajikistan who is considering a case of violation of the customs regulations may, recognizing the need to impose on the guilty person sanctions lighter than any foreseen by this Code for the offence in question (given circumstances which substantially reduce the danger to the public associated with the offence and also the character of the guilty person), permit such a lightening of the sanctions provided that the motives therefor are stated.

On the same grounds, it is possible not to impose an additional penalty appearing to be obligatory in the light of an article in this section dealing with responsibility for violations of the customs regulations.

**Article 240. Declaration of freedom from responsibility
for violating the customs regulations**

If a violation of the customs regulations is trivial, the customs official of the Republic of Tajikistan who is considering the case may declare the offender to be free from responsibility and simply give an oral reprimand.

**Article 241. Period at the end of which a person is considered
not to have been subjected to a penalty for
violating the customs regulations**

If a person who has been subjected to a penalty for violating the customs regulations does not again violate the customs regulations for a year from the day when the imposition of the penalty ended, that person shall be considered not to have been subjected to a penalty.

**Article 242. Types of penalty imposed for
violations of the customs regulations**

The following types of penalty are imposed for violations of the customs regulations:

- (1) Warnings;
- (2) Fines;
- (3) Revocation of licence or eligibility certificate issued by the customs authorities of the Republic of Tajikistan for the conduct of certain types of activities provided for in this Code;
- (4) Confiscation of the goods and means of transport which were the immediate objects of the violation of the customs regulations and also of any goods and means of transport with specially devised hiding places used in covertly transferring across the customs frontier of the Republic of Tajikistan items which were immediate objects of the violation of the customs regulations;
- (5) Levying of the cost of the goods and means of transport which were the immediate objects of the violation of the customs regulations and also of any goods and means of transport with specially devised hiding places used in covertly transferring across the customs frontier of the Republic of Tajikistan items which were immediate objects of the violation of the customs regulations; and
- (6) Confiscation of the means of transport on which goods which were immediate objects of the violation of the customs regulations were carried.

Article 243. Fines

If the penalty imposed is a fine based on the minimum monthly wage, the latter shall be the legal minimum monthly wage on the day when the offence was committed or, if that day cannot be established, on the day when the offence was discovered.

If the penalty imposed is a fine based on the value of the goods and means of transport, the value of these items shall be considered to be their free-market price on the day when the offence was discovered.

Article 244. Revocation of licence or eligibility certificate

Licences or eligibility certificates may be revoked as an additional penalty imposed on the owners of bonded warehouses, duty-free shops and temporary storage depots and also on customs brokers, bonded-goods carriers and customs clearance specialists for violating the customs regulations if the offence was committed by the persons in question while they were engaged in activities provided for in the licence or eligibility certificate.

Article 245. Levying of the value of goods and means of transport

Levying of the value of the goods and means of transport which were the immediate objects of the violation of the customs regulations and goods and means of transport with specially devised hiding places used in covertly transferring across the customs frontier of the Republic of Tajikistan items which were immediate objects of the violation of the customs regulations shall consist in the forcible collection of a monetary amount corresponding to the free-market price of such goods and means of transport on the day when the offence was discovered, and it shall be applied as a basic or an additional penalty.

Article 246. Violation of the customs regulations by a number of persons acting together

Deliberate joint participation by two or more persons in a violation of the customs regulations shall be considered to be co-participation in the offence.

The organizers, instigators and abettors shall be considered to be co-participants in the violation of the customs regulations along with the perpetrators.

A person directly committing a violation of the customs regulations or indirectly participating in a violation together with other persons, or committing the offence through the use of persons who are by virtue of the law not held responsible for violating the customs regulations, shall be considered to be the perpetrators.

A person organizing or directing a violation of the customs regulations shall be considered to be the organizer.

A person who encourages others to commit a violation of the customs regulations shall be considered to be the instigator.

A person who facilitates a violation of the customs regulations through advice, instructions, the provision of means or the removal of obstacles or a person who promises in advance to conceal traces of the offence or items which are immediate objects of the violation of the customs regulations shall be considered to be an abettor.

The degree and nature of the participation of each co-participant in the violation of the customs regulation should be taken into account in the imposition of a penalty.

**Article 247. Period for the imposition of penalties
for violations of the customs regulations**

The penalties provided for in paragraphs 1-3 of Article 242 of this Code may be imposed on private citizens or officials no later than two months from the day when the violation of the customs regulations was discovered and on enterprises, institutions and organizations, and on a person engaging in entrepreneurial activities without being incorporated, no later than six months from the day when the offence was discovered.

The penalties provided for in paragraphs 4-6 of Article 242 of this Code shall be imposed regardless of when the violation of the customs regulations was committed or discovered and regardless of whether they are basic or additional penalties.

In the event of a decision to refrain from instituting or to discontinue criminal procedures despite indications that the customs regulations have been violated, the period for the imposition of penalties shall be computed from the moment when the customs office of the Republic of Tajikistan decided to refrain from instituting or to discontinue criminal procedures.

If a person commits a further violation of the customs regulations before the expiration of the period for the imposition of penalties indicated in the first paragraph of this article, computation of the period in question is interrupted. In such an event, computation of the period begins again, starting from the moment when the further violation of the customs regulations was discovered.

**Article 248. Ensuring legality in the application of sanctions
for violations of the customs regulations**

No one may be subjected to sanctions for violating the customs regulations other than on the basis of and in accordance with the rules provided for in the legislation of the Republic of Tajikistan.

The conduct of proceedings relating to and the examination of cases of violation of the customs regulations, and also the implementation of decisions of the customs authorities of the Republic of Tajikistan regarding the imposition of penalties, shall take place on a basis of strict legality.

In applying sanctions for violations of the customs regulations, the customs authorities of the Republic of Tajikistan and their officials shall not exceed their competence and shall act in strict accordance with the legislation of the Republic of Tajikistan.

Compliance with the requirements of the legislation of the Republic of Tajikistan in the application of sanctions for violations of the customs regulations shall be ensured through systematic checks carried out by higher customs authorities of the Republic of Tajikistan, by the Directorate of Public Prosecutions, through exercise of the right to appeal and in other ways provided for in the legislation of the Republic of Tajikistan.

CHAPTER 39

Violations of the customs regulations and the penalties for those violations

[...]

**Article 250. Failure, when importing goods and means of transport, to report
the crossing of the customs frontier of the Republic of Tajikistan**

Failure, when importing goods and means of transport into the customs territory of the Republic of Tajikistan, to notify a customs office of the Republic of Tajikistan of the crossing of the customs frontier of the Republic of Tajikistan shall entail a warning or the imposition of a fine of up to three times the legal minimum monthly wage.

[...]

Article 253. Failure to present goods and means of transport at the delivery point and to hand over documents relating to them

Failure to present goods and means of transport at the delivery point and to hand over the documents relating to them to the customs office of the Republic of Tajikistan shall entail a warning or the imposition of a fine of up to five times the legal minimum monthly wage.

Article 254. Surrender of goods and means of transport and of the documents relating to them without permission of a customs office of the Republic of Tajikistan, their loss, or failure to deliver them to a customs office of the Republic of Tajikistan

The surrender without permission from a customs office of the Republic of Tajikistan of goods and means of transport which are subject to customs control, their loss, or failure to deliver them to a location specified by a customs office of the Republic of Tajikistan shall entail a fine of 50-100 per cent of the value of the goods and means of transport which were the immediate objects of the offence, with or without their confiscation, with or without the levying of their value, and with or without revocation of the licence or eligibility certificate.

The loss of or failure to deliver customs or other documents relating to goods and means of transport subject to customs control where those documents were accepted with a view to their being handed over to a customs office of the Republic of Tajikistan shall entail a warning or the imposition of a fine of 3-50 per cent of the value of the goods and means of transport in question.

Failure to comply with the deadline set by a customs office of the Republic of Tajikistan for the delivery of goods and means of transport and of the documents relating to them shall entail a warning or the imposition of a fine of 2-10 times the legal minimum monthly wage.

[...]

Article 259. Illegal operations with, changing the condition of, using and disposing of goods and means of transport whose customs clearance has not been completed

The conduct of operations with goods and means of transport whose customs clearance has not been completed, changing the condition of, using and disposing of such items in violation of the established requirements and stipulations shall, except in the cases covered by other articles in this section, entail a fine of 10-100 per cent of the value of the goods and means of transport which were the immediate objects of the offence.

Article 260. Loading and other operations conducted without the permission of a customs office of the Republic of Tajikistan

The transporting, loading, unloading and reloading of goods and means of transport which are subject to customs control, the repairing of damaged packaging of such items, the packing, repacking or acceptance for transport of such items, the taking of samples from such items and the opening up of premises and other locations where such items may be present shall, if done without the permission of a customs office of the Republic of Tajikistan, entail a fine of 10-20 times the legal minimum monthly wage.

Article 261. Altering, destroying, damaging or losing means of identification

Altering, destroying, damaging or losing means of identification applied by a customs office of the Republic of Tajikistan shall entail a fine of 10-20 times the legal minimum monthly wage.

Article 262. Infringement of procedures for declaring goods and means of transport

The infringement of procedures for declaring goods and means of transport—i.e. non-compliance with the requirements relating to the form, to the place and to the modalities (including the use of provisional, incomplete or collective declarations) shall, except in the cases covered by other articles in this chapter, entail a warning or the imposition of a fine of 2-5 times the legal minimum monthly wage, with or without revocation of the licence or eligibility certificate.

Article 263. Non-compliance with deadlines for the presentation of a customs declaration and the associated documents and additional information to a customs office of the Republic of Tajikistan

Failure to present to a customs office of the Republic of Tajikistan within the deadlines set by it a customs declaration of the goods and means of transport and the other documents and the additional information needed for customs purposes shall entail a fine of up to five times the legal minimum monthly wage, with or without revocation of the licence or eligibility certificate.

Article 264. Impeding the access of a customs official of the Republic of Tajikistan to premises for customs control purposes

Impeding the access of a customs official of the Republic of Tajikistan to premises where goods and means of transport subject to customs control or documents necessary for customs control purposes may be present or where activities whose control is a task of the customs authorities of the Republic of Tajikistan are taking place shall entail a fine of 5-15 times the legal minimum monthly wage, with or without revocation of the licence or eligibility certificate.

[...]

Article 272. Infringement of the rules relating to the destruction of goods

Infringement of the rules relating to the destruction of goods—i.e. non-compliance with the requirements, restrictions and stipulations relating to the destruction of goods and to the placing of the resulting waste under the appropriate customs regime—shall entail a fine of up to ten times the legal minimum monthly wage or of 10-100 per cent of the value of the goods which should have been destroyed.

Article 273. Conduct of illegal operations with, altering the condition of, and using and disposing of goods and means of transport subjected to a specific customs regime

The conduct of operations with, altering the condition of, and using and disposing of goods and means of transport in a manner not in accordance with the customs regime to which they are subject and non-compliance with other restrictions, requirements and stipulations of that customs regime shall, except in the cases covered by other articles of this chapter, entail a fine of 100-200 per cent of the value of the goods and means of transport which were the immediate objects of the offence, with or without their confiscation, with or without the levying of an amount equal to their value, and with or without revocation of the licence or eligibility certificate.

[...]

Article 278. Fraudulent use of documents and means of identification in transferring goods and means of transport across the customs frontier of the Republic of Tajikistan

Persons transferring goods and means of transport across the customs frontier of the Republic of Tajikistan who present to a customs office of the Republic of Tajikistan, as documents necessary for customs purposes, forged documents, invalid documents, illegally acquired documents, documents containing false information or documents relating to other goods and means of transport or who use forged means of identification or genuine means of identification relating to other goods and means of transport shall, except in the cases covered by Articles 279 and 282 of this Code and if there are no indications of smuggling, be fined 100-300 per cent of the value of the goods and means of transport which were the immediate objects of the offence, with confiscation of the goods and means of transport or the levying of an amount equal to their value.

Article 279. Non-declaration or false declaration of goods and means of transport

The non-declaration or the false declaration of goods and means of transport being transferred across the customs frontier of the Republic of Tajikistan—i.e. failure to submit in writing, orally or in some other approved manner authentic information or the submission of false information about the goods and means of transport and the customs regime to which they are subject, and failure to submit other information necessary for customs purposes—shall, except in the cases covered in Articles 258, 262, 263, 274, 275, 276, 277, 278 and 282 of this Code and if there are no indications of smuggling, entail a fine of 100-200 per cent of the value of the goods and means of transport which were the immediate objects of the offence, with or without their confiscation, with or without the levying of an amount equal to their value, or with or without revocation of the licence or eligibility certificate.

The submission of false information which does not influence the decision of the customs office of the Republic of Tajikistan regarding the transfer of the goods and means of transport across the customs frontier of the Republic of Tajikistan, their subjection to the requested customs regime and the customs dues to be paid shall entail a warning or the imposition of a fine of up to three times the legal minimum monthly wage.

Article 280. Transport, possession, acquisition, use or disposition of goods and means of transport imported into the customs territory of the Republic of Tajikistan in contravention of the customs regulations

The transport, possession, acquisition, use or disposition of goods and means of transport imported into the customs territory of the Republic of Tajikistan with the bypassing of customs controls, with concealment from customs controls, with the fraudulent use of documents or means of identification, undeclared or falsely declared, and also the transport, possession and acquisition of goods and means of transport in respect of which customs privileges have been granted and which are being used or misused without the permission of a customs office of the Republic of Tajikistan for purposes other than those for which the privileges were granted, shall entail a fine of 50-200 per cent of the value of the goods and means of transport which were the immediate objects of the offence, with or without their confiscation, with or without the levying of an amount equal to their value, or with or without revocation of the licence.

[...]

**Article 288. Failure of officials and other persons to comply
with rules governing customs matters**

The failure of officials and other employees of enterprises, institutions or organizations operating in the customs field to comply with rules for the infringement of which this chapter deals with the responsibility, and also non-compliance with those rules by other persons performing work connected with civil law agreements for such enterprises, institutions or organizations when the enterprises, institutions or organizations have proceedings instituted against them for violation of the customs regulations, shall entail a warning or the imposition of a fine of up to 20 times the legal minimum monthly wage.

[...]

CHAPTER 40

**General conditions relating to proceedings in—and to the consideration
of—cases of violation of the customs regulations**

**Article 300. Actions of officials of the customs authorities of the Republic of Tajikistan
upon detecting signs of smuggling or of other crimes the conduct of inquiries
into which is a task of the customs authorities of the Republic of Tajikistan**

When there are signs of smuggling or of other crimes the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, if those signs were detected during proceedings in—or the consideration of—a case of violation of the customs regulations, the question whether to institute criminal proceedings shall be decided in accordance with the provisions of Articles 223 and 365 of this Code.

Upon detecting, in the course of customs controls or customs clearance, signs of smuggling or of another crime the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, the official of a customs office of the Republic of Tajikistan who detected them shall describe the illegal act in a report in accordance with Articles 219, 220 or 221 of this Code or with the article of the criminal code of the Republic of Tajikistan dealing with criminal responsibility for such an act. In such an event, the head or deputy head of the customs office of the Republic of Tajikistan must within no more than three days (10 days in exceptional cases) take one of the decisions provided for in the legislation of the Republic of Tajikistan relating to criminal proceedings:

- (1) To institute criminal proceedings;
- (2) To refrain from instituting criminal proceedings;
- (3) To forward the report and the other documents relating to the crime to the appropriate authorities.

During the time between the discovery in the course of customs controls or customs clearance of the signs of smuggling or another crime the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan and the taking of one of the decisions indicated in the second part of this article, the official of the customs office of the Republic of Tajikistan shall verify the facts in the manner foreseen for cases of violation of the customs regulations.

Article 301. Circumstances under which, after the institution of criminal proceedings in the light of signs of smuggling or of other crimes the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, officials of the customs authorities of the Republic of Tajikistan shall continue with proceedings in respect of violations of the customs regulations

If, during inquiries into a case of smuggling or of another crime the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, signs are detected of a violation of the customs regulations by an enterprise, institution or organization, or by a person engaging in entrepreneurial activities without being incorporated, the proceedings regarding this offence must continue to be pursued by a customs official of the Republic of Tajikistan independently of the investigation of the criminal case involving individual persons or officials.

[...]

Article 304. Communicating to an investigating magistrate or to the agencies responsible for conducting preliminary investigations information about crimes not falling under the heading of smuggling or another crime the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan

In the event of the discovery—during customs examinations, in the course of customs clearance, during the verification of reports, statements and other information about violations of the customs regulations which are being prepared or committed or have been committed, or in the course of proceedings relating to or the consideration of a case of violation of the customs regulations—of signs of crimes not falling under the heading of smuggling and other crimes the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, the head or deputy head of the customs office of the Republic of Tajikistan shall communicate the available data to an investigating magistrate or to the agencies responsible for conducting preliminary investigations.

[...]

CHAPTER 43

Evidence in cases of violation of the customs regulations

Article 328. Handling of material evidence in criminal proceedings or of materials relating to smuggling or other crimes

Upon the completion of inquiries into a criminal case of smuggling or another crime the conduct of inquiries into which is a task of the customs authorities of the Republic of Tajikistan, the material evidence shall be transferred, together with the case, to the preliminary investigation agency to which the obligation to conduct the preliminary investigation regarding the case has been assigned by the legislation of the Republic of Tajikistan.

If, because of its unwieldiness or for other reasons, the material evidence cannot be transferred to the preliminary investigation agency together with the criminal case, the customs authorities of the Republic of Tajikistan must, when transferring the case, inform the preliminary investigation agency of the whereabouts of the material evidence.

From the moment when the criminal case is transferred to the preliminary investigation agency, the latter shall be responsible for safeguarding the material evidence.

With the transfer of the criminal case to the preliminary investigation agency, the expenses associated with the custody and transport of the material evidence shall not be chargeable to the customs authorities of the Republic of Tajikistan. The procedures for the reimbursement of such expenses shall be determined by the legislation of the Republic of Tajikistan.

The provisions of this article shall apply also in cases where the customs authorities of the Republic of Tajikistan transfer materials relating to smuggling and other crimes to preliminary investigation agencies for a decision on whether to institute criminal proceedings.

[...]

DECREE OF THE PRESIDENT OF THE REPUBLIC OF TAJIKISTAN
Concerning the Establishment of a Drug Control Agency under
the President of the Republic of Tajikistan

In the interests of waging an effective and purposeful campaign against illicit trafficking in narcotic drugs, psychotropic substances and precursors as well as exercising effective control over licit traffic in such substances, and with a view to implementing the Protocol between the Republic of Tajikistan and the United Nations Office for Drug Control and Crime Prevention signed on 27 April 1999 in Vienna, I hereby issue the following Decree:

1. A Drug Control Agency under the President of the Republic of Tajikistan is to be established on the basis of the existing State Committee of the Republic of Tajikistan for the Control of Narcotic Drugs.
2. The Drug Control Agency under the President of the Republic of Tajikistan shall, within one month, draft a Statute for the Agency and a document concerning the structure of the Agency and submit those documents for approval to the President of the Republic of Tajikistan.
3. The Government of the Republic of Tajikistan shall, within one month:
 - Prepare and submit to the Majlis Oli (Parliament) of the Republic of Tajikistan proposals for consequent changes in and additions to the relevant legislation in force in the Republic of Tajikistan;
 - In collaboration with the Governments of the Gorno-Badakhshan Autonomous Region, of the Leninabad and Khatlon Districts and of the City of Dushanbe, select and organize work premises to house the various divisions of the Drug Control Agency under the President of the Republic of Tajikistan.

The President of the Republic of Tajikistan
[Official seal]
E. Rakhmonov
Dushanbe, 1 June 1999

E/NL.2002/27

DECREE OF THE PRESIDENT OF THE REPUBLIC OF TAJIKISTAN
on Approval of the Statute and Structure of
the Drug Control Agency under the President
of the Republic of Tajikistan

In accordance with the Protocol between the Republic of Tajikistan and the United Nations Office for Drug Control and Crime Prevention signed on 27 April 1999 in Vienna, and in the interests of effective organization of the fight against illicit trafficking in narcotic drugs, psychotropic substances and precursors, and effective control over their licit use, I hereby decide:

1. To approve the attached Statute of the Drug Control Agency under the President of the Republic of Tajikistan, and
2. To instruct the Government of the Republic of Tajikistan as follows:

The Government shall prepare, within a period of two months, a list of special titles for the staff of the Drug Control Agency under the President of the Republic of Tajikistan and submit the list to the Majlis Oli (Parliament) of Tajikistan for approval;

It shall furthermore provide for the allocation of funds, in the State budget, to finance the activities of the Drug Control Agency under the President of the Republic of Tajikistan in respect of all items of expenditure not expressly envisaged in the Protocol between the Republic of Tajikistan and the United Nations Office for Drug Control and Crime Prevention of 27 April 1999.

3. The Drug Control Agency under the President of the Republic of Tajikistan shall, within a period of two months, submit for approval by the Government of the Republic of Tajikistan a set of Regulations Governing the Service of Regular and Senior Staff of the Drug Control Agency, under the President of the Republic of Tajikistan.
4. The Ministry of Internal Affairs, the Ministry of Public Safety, the Ministry of Justice and the Ministry of Public Health of the Republic of Tajikistan shall arrange for the detention in temporary confinement cells and in pretrial confinement cells of persons detained and arrested on drug-related charges and shall provide the Drug Control Agency with assistance in carrying out the necessary inquiries, in using relevant data banks and office premises as well as the communications required for initial investigatory and operative measures.
5. The Ministries, State Committees and other authorities of the Republic of Tajikistan with competence in matters relating to the licit traffic in narcotic drugs, psychotropic substances and precursors, to the campaign against illicit trafficking in such substances, and to the treatment and prevention of drug addiction, shall submit to the Drug Control Agency quarterly, semi-annual and annual statistical reports approved by the Government of the Republic of Tajikistan.

The President of the Republic of Tajikistan
[Official Seal]
E. Rakhmonov
Dushanbe, 12 July 1999
No. 1248

E/NL.2002/28

APPROVED

**By Decree of the President
of the Republic of Tajikistan
on 12 July 1999 (No. 1248)**

**STATUTE
of the Drug Control Agency under the
President of the Republic of Tajikistan**

1. The Drug Control Agency under the President of the Republic of Tajikistan (hereinafter referred to as “the Agency”) was established by Decree No. 1218 of the President of the Republic of Tajikistan on 1 June 1999^{1]} to meet the requirements of the United Nations Single Convention on Narcotic Drugs, 1961, and in accordance with the Protocol between the Republic of Tajikistan and the Office for Drug Control and Crime Prevention of the United Nations signed on 27 April 1999 in Vienna. The Agency is a public authority responsible for implementing State policy on licit trade in narcotic drugs, psychotropic substances and precursors and on the campaign against illicit trafficking in such substances, and for monitoring the effective execution of that policy within the Republic of Tajikistan. The Agency reports to the President of the Republic.
2. In its work the Agency shall be guided by the Constitution of the Republic of Tajikistan, by the laws of the Republic, by the Decrees of the President of the Republic, by Decisions of the Majlis Oli (Parliament) and the Government of the Republic of Tajikistan, by international legal acts to which the Republic of Tajikistan subscribes, and by this Statute.
3. Within the limits of its competence, the Agency shall coordinate the activities of law enforcement bodies, ministries and departments that deal with licit trade in narcotic drugs, prevention of the illicit dissemination of such drugs, and also the prevention and treatment of drug addiction; it shall take a direct part in the campaign against illicit trafficking in narcotic drugs, psychotropic substances and precursors.
4. In accordance with the relevant legislation of the Republic, the Agency shall represent the interests of Tajikistan in the international arena in matters relating to licit trade in narcotic drugs, psychotropic substances and precursors and in the campaign against illicit trafficking in such substances; it shall also represent Tajikistan on the United Nations International Drug Control Committee and in other international organizations.
5. The Agency shall, each year, prepare estimates of the funds required for its work and submit them for approval to the Government of the Republic.
6. The Agency shall have legal personality and its own debit and other accounts (including a currency account) with the banks of the Republic of Tajikistan. It shall also have its own official stamp bearing the coat of arms of the Republic and the Agency’s name in the State language as well as in the Russian and English languages.
7. The main task of the Agency shall be to coordinate the activities and collaboration of the various ministries and departments having responsibilities related to licit trade in narcotic drugs, psychotropic substances and precursors, to the campaign to suppress illicit trafficking in these substances and to the prevention and treatment of drug addiction.

^{1]} Note by the Secretariat: E/NL.2002/26

8. The principal functions of the Agency shall be:

(a) To detect and expose, and where possible to prevent or forestall, crimes involving narcotic drugs, and to find and establish the identity of persons involved in the preparation or commission of such crimes, for which purpose it will be involved in criminal investigation activities in the manner prescribed by law, carrying out inquiries and preliminary inquests;

(b) To prepare, in collaboration with other ministries and departments, regulations and instructions to govern production, inventory control, storage, sale, distribution, destruction and other activities involving narcotic drugs, psychotropic substances and precursors in Tajikistan, and the exercise of appropriate controls over their implementation, within the limits of its competence;

(c) To issue licences for licit trade in narcotic drugs, psychotropic substances and precursors in a manner to be determined by the Government of the Republic of Tajikistan, and to exercise appropriate controls, in collaboration with competent ministries and departments, over the import, export, inventory control, storage, sale, production and distribution of such materials;

(d) To sign, on behalf of the President of the Republic and the Government of the Republic of Tajikistan, international agreements on cooperation with other States and international non-governmental organizations in matters related to the campaign against illicit trafficking in narcotic drugs, psychotropic substances and precursors;

(e) To perform a continuing and comprehensive evaluation of the progress achieved in the campaign against illicit trafficking in narcotic drugs, psychotropic substances and precursors within Tajikistan;

(f) To determine, in agreement with the Ministry of Public Health, actual requirements for narcotic drugs and psychotropic substances and to submit the resulting data to the United Nations International Drug Control Committee with a view to obtaining relevant quotas;

(g) To draw up, pursuant to the Single Convention on Narcotic Drugs 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, a national list of substances assigned to the category of narcotic drugs and psychotropic substances, and to submit that list for approval by the Government of the Republic of Tajikistan;

(h) To organize and coordinate work aimed at teaching, enhancing qualifications and exchanging experience among the staff members of the Agency, the law enforcement bodies, and other ministries and departments of the Republic involved in the quest for solutions to the drug addiction problem;

(i) To organize, hold and participate in national and international seminars on drug problems and the exchange of information on methods of controlling licit traffic in narcotic drugs, psychotropic substances and their precursors and of combating violations in this area;

(j) To carry out preventive, educational and explanatory work among the general public on questions relating to the campaign against illicit trafficking in narcotic drugs, psychotropic substances and their precursors; and

(k) To exercise such other powers as are specified in the relevant laws and normative legal acts of the Republic of Tajikistan and in this Statute.

9. The Drug Control Agency shall have the right:

(a) To conduct inquiries and carry out full investigations of criminal cases involving crimes associated with narcotic drugs and assigned by criminal procedure legislation to the Agency's competence. Pursuant to a motivated decision on the part of the Agency's investigator, and with the consent of the Public Prosecutor's Office and its local branches, the Agency may take over criminal cases initiated by other law enforcement bodies if they are connected with narcotic drugs and fall within its competence;

(b) To carry out practical criminal investigation work to the extent and in the manner established by the Law of the Republic of Tajikistan "On criminal investigation activities";

(c) To keep records of persons, objects and facts associated with illegal trafficking in narcotic drugs;

(d) To produce photographic, acoustic, film and videotape records of, and to fingerprint and register, persons detained on justified suspicion of committing crimes associated with narcotic drugs or already accused of such crimes;

(e) To arrange for secure and isolated confinement of persons detained on suspicion of committing crimes associated with narcotic drugs;

(f) Temporarily to limit or prohibit access of citizens to particular portions of a locality or particular sites for the purpose of carrying out special measures required to detain persons who have committed or are committing crimes associated with narcotic drugs;

(g) To conduct, in accordance with relevant legislation, examinations of hand luggage and baggage of passengers on civil aircraft, railway trains and motor transport vehicles, and also to search passengers with a view to determining whether they are engaged in illegal conveyance of narcotic drugs;

(h) To collaborate with the Government's Committee on State Border Security and the Customs Service in carrying out their duties related to frontier security controls and customs examinations;

(i) To carry out measures designed to prevent the legalization of assets obtained through illegal trafficking in narcotic drugs (money-laundering);

(j) To perform criminal investigation analyses and chemical studies on confiscated narcotic drugs, psychotropic substances and precursors, and also any other criminal investigation research that may be needed for the gathering of evidence;

(k) To arrange, in the manner provided by law, for secure custody of equipment, evidence and other materials relevant to its investigations, and to establish the information and analytical systems required for practical investigation work;

(l) To obtain from ministries, State committees and departments of the Republic of Tajikistan statistical information (in standard government format), and such other information as is needed to coordinate their activities and collaboration in matters related to licit trade in narcotic drugs, psychotropic substances and precursors and to the campaign against illicit trafficking in such materials;

(m) To use, by special agreement, the data banks, drug-sniffer dog services, premises for the confinement of persons detained on suspicion of drug-related crimes, lie-detector equipment, medical services and so on belonging to other State bodies of the Republic of Tajikistan;

(n) To suspend and/or confiscate the licences of tradesmen who violate the regulations governing inventory control, import, export, custody, sale (delivery), production and distribution of narcotic drugs, psychotropic substances and precursors;

(o) To engage in cooperation, on the basis of international treaties and agreements to which the Republic of Tajikistan has subscribed, with the special services, law enforcement authorities and other organizations of foreign States, and to exchange relevant information with them under mutual arrangements;

(p) To take steps to ensure its own security.

10. Staff members of the Agency shall be entitled to keep, carry and use firearms and other special equipment as provided in the relevant legislation of Tajikistan.

11. The organizational and legal structure of the Agency consists in its central office and provincial offices in the Gorno-Badakhshan Autonomous Region and the Leninabad and Khatlon Districts.

12. The Agency shall be headed by a Director, to be appointed and dismissed by the President of Tajikistan.

13. The Director of the Agency shall:

- Represent the Republic of Tajikistan in international organizations responsible for the control of narcotic drugs and submit to them the documents and reports required by United Nations conventions;
- Sign international conventions and agreements on questions related to licit trade in narcotic drugs and to the campaign against illicit trafficking on behalf of the President of the Republic and the Government of Tajikistan;
- Submit proposals to the President of the Republic and the Government of Tajikistan on questions related to the Agency's activities;
- Provide for overall organization and guidance of the Agency's work and bear personal responsibility for the results thereof;
- Appoint and release staff members;
- Initiate and impose disciplinary action in accordance with the relevant legislation of Tajikistan;
- Appoint staff, arrange for the distribution of duties among staff members and introduce changes in the manning table of the Agency as required;

- Organize the Agency's work and personally supervise the development of national programmes and future plans for the Agency's work related to licit trade in narcotic drugs, psychotropic substances and their precursors.

14. The Director shall have two deputies, to be appointed and dismissed by the President of the Republic upon his recommendation.

15. The Agency shall have a Board consisting of its Director, his deputies and the department heads. The composition of the Board shall be approved by the President of Tajikistan.

16. The size of the Agency's staff is established at 350 in accordance with the Protocol between the Republic of Tajikistan and the United Nations Office for Drug Control and Crime Prevention.

The staff of the Agency shall be made up of citizens of the Republic of Tajikistan recruited on a competitive and contractual basis.

Staff members of the Agency shall be issued with identity cards and badges, the form of which is to be approved by the Government of Tajikistan.

17. Each member of the Agency's staff shall, upon entering its service, take an oath the text of which is to be approved by the President of the Republic of Tajikistan.

18. Questions relating to the terms of service of the Agency's staff shall be dealt with in a set of "Regulations Governing the Service of Regular and Senior Staff of the Drug Control Agency under the President of the Republic of Tajikistan", to be approved by the Government of the Republic of Tajikistan.

APPROVED
By Decision of the Government
of the Republic of Tajikistan
on 9 November 2000 (No. 465)

REGULATIONS
Governing the Procedure for the Issue of Licences to Engage in Licit trade
in Narcotic Drugs, Psychotropic Substances and Precursors

1. General questions

1. These Regulations define the procedures and conditions governing the issue of licences to engage in licit trade in narcotic drugs, psychotropic substances and precursors in accordance with the relevant legislation of the Republic of Tajikistan, namely the law “On Narcotic Drugs, Psychotropic Substances and Precursors”^{1]} and the law “On the Protection of Public Health”.
2. Licensing of activities involving licit trade in narcotic drugs, psychotropic substances and precursors has the purpose of introducing State regulation and a single State policy with regard to the control of narcotic drugs, psychotropic substances and precursors, and also of protecting the interests of the State and its citizens in connection with the cultivation of plants containing narcotic drugs for scientific purposes and the processing, acquisition, treatment, production, storage, delivery, sale, distribution, use, transit, transport, forwarding, import and export of narcotic drugs, psychotropic substances and precursors.
3. Licensing of activities involving licit trade in narcotic drugs, psychotropic substances and precursors shall be the prerogative of a Licensing Commission headed by a Chairman (the Director of the Drug Control Agency under the President of the Republic of Tajikistan) and two Co-Chairmen (the Minister of Public Health and the Minister of Internal Affairs of Tajikistan). The Commission is made up of representatives of the Drug Control Agency, the Ministry of Public Health and the Ministry of Internal Affairs.
4. The statute of the Licensing Commission shall be approved by joint decree of the Director of the Drug Control Agency, the Minister of Public Health and the Minister of Internal Affairs.
5. In every case where a licence-holder crosses the customs frontier of Tajikistan for the purpose of importing or exporting narcotic drugs, psychotropic substances and precursors, he shall be issued with a permit and an internationally valid certificate.
6. Transfer of the permit or certificate to any other juridical person, even if that person also holds a licence for activities involving licit trade in narcotic drugs, psychotropic substances and precursors, is prohibited.
7. Licences to engage in activities involving licit trade in narcotic drugs shall be issued only to State enterprises, institutions and organizations (hereinafter called “enterprises”).

^{1]} Note by the Secretariat: E/NL.2000/18

8. Licences to engage in activities involving licit trade in psychotropic substances and precursors may be issued to enterprises, institutions and organizations (hereinafter called “enterprises”) regardless of their form of ownership or official status.

9. If activities involving licit trade in narcotic drugs, psychotropic substances and precursors are to be carried out at a number of separate and distinct sites, each individual site shall be subject to licensing as provided by law.

10. Licences shall be issued for a period of one year for the following types of activity involving licit trade in narcotic drugs, psychotropic substances and precursors:

- Cultivation of plants containing narcotic drugs for scientific purposes;
- Development of narcotic drugs, psychotropic substances and precursors;
Procuring of narcotic drugs, psychotropic substances and precursors;
Production of narcotic drugs, psychotropic substances and precursors;
- Acquisition, storage and sale of narcotic drugs, psychotropic substances and precursors;
- Acquisition, storage and utilization of narcotic drugs, psychotropic substances and precursors;
- Distribution of narcotic drugs, psychotropic substances and precursors;
- Utilization of narcotic drugs, psychotropic substances and precursors;
- Transit of narcotic drugs, psychotropic substances and precursors;
- Transport of narcotic drugs, psychotropic substances and precursors;
- Forwarding of narcotic drugs, psychotropic substances and precursors;
- Import of narcotic drugs, psychotropic substances and precursors into the territory of the Republic of Tajikistan;
- Export of narcotic drugs, psychotropic substances and precursors from the territory of the Republic of Tajikistan.

11. Licensing forms are highly sensitive documents subject to careful control, and each form has a serial and registration number. The information required in the licence is:

- The name of the body issuing the licence;
- The registration number;
- The full name, legal address and current postal address of the licence holder;
- The birth certificate number and date of State registration of the licence holders;
- The type of activity for which the licence is being issued;
- Any particular conditions applicable to the performance of such activity;

- The period of validity of the licence;
- The date of issue of the licence.

12. The forms for licences, export authorization and import certification shall be approved by joint order of the Director of the Drug Control Agency, the Minister of Health and the Minister of Internal Affairs of the Republic of Tajikistan.

13. Transfer of a licence to another juridical person is prohibited. Upon liquidation of an enterprise, the licence loses its validity.

II. Procedures and conditions for the issue of licences for licit trade in narcotics, psychotropic substances and precursors

14. Licences for activities involving licit trade in narcotics, psychotropic substances and precursors are issued to enterprises on condition that the type of activity concerned is entrusted to a competent specialist with professional training for the exercise of that type of activity. The specialist in question bears personal responsibility for implementation of the measures required by Tajikistan law on narcotic drugs, psychotropic substances and precursors and by these Regulations.

15. The application for issue of a licence must include:

- The name of the enterprise, its organizational and legal form, its legal address, the number of its current account and the name of the bank in which the account is held;
- Designation of the specific form of activity involving legal trafficking in narcotic drugs, psychotropic substances and precursors;
- Designation of the measures which are to be taken to keep account of and protect the narcotic drugs, psychotropic substances and precursors.

The application must be accompanied by the following:

- The founding documents of the enterprise;
- For enterprises engaged in the sale and storage of narcotic drugs, psychotropic substances and precursors, a copy of the licence issued by the Ministry of Public Health of Tajikistan for pharmaceutical work;
- A copy of the competent specialist's diploma, certifying his professional training for the specific type of activity he is to carry out;
- A statement by the competent department of the Ministry of the Interior regarding the possibility of handling narcotic drugs, psychotropic substances and precursors in the premises available for the proposed activity.

17. In his application for an import certificate or export authorization, the applicant must specify the narcotic drug, psychotropic substance or precursor involved, its internationally accepted designation, the form in which it is produced, and the quantity in terms of dry material. A copy of the agreement with the supplier of the material must be annexed to the application.

18. The licence shall be signed by the Chairman and the Co-Chairmen of the Licensing Commission and certified by the official stamps of their institutions.
19. The Licensing Commission shall be entitled to check the authenticity of documents submitted.
20. The applicant shall bear responsibility for the authenticity of documents submitted by him in accordance with the relevant legislation of the Republic of Tajikistan.
21. Applications for the issue of a licence must be considered within one month of their submission.
22. In the event of a reorganization or change of name or legal address of the enterprise, or of a change in the type of activity performed, or loss of licence, the licence-holder shall apply for the issue of a new licence within 15 days. Reissue of licences follows the same procedure as that established for the original issue.

III. Grounds for refusal to issue a licence

Extension, suspension or cancellation of licences

23. The following shall constitute grounds for withholding a licence:
- The presence in the documents submitted by the applicant of false or distorted information;
 - Failure on the part of the applicant to ensure the conditions required for safe custody of the narcotic drugs, psychotropic substances and precursors and for preventing their loss to illicit trade;
 - The presence among the enterprise's personnel of persons undergoing clinical treatment for drug addiction or solvent abuse, or of persons recognized as unsuitable for carrying out certain types of work involving sources of enhanced risk, as provided in the relevant legislation of the Republic of Tajikistan;
 - The presence among the enterprise's personnel of citizens having as yet unexpunged convictions for crimes associated with narcotic drugs, psychotropic substances and precursors (until the question of their guilt has been resolved in accordance with the law).
24. The applicant shall be notified in writing and informed of the grounds for refusal to grant a licence within one week of adoption of the decision to withhold his licence.
25. The validity of a licence may be suspended or cancelled by the Licensing Commission before its expiry in the following cases:
- Discovery of false information in documents submitted by the licence-holder;
 - Violation by the licence-holder of conditions applicable to the issue of the licence;
 - Disregard by the licence-holder of orders and instructions received from State authorities, or suspension of the activities of his enterprise by the competent authorities in accordance with the relevant legislation of the Republic of Tajikistan;

- Hindrance of officials monitoring adherence to the requirements of these Regulations and other legislative and normative acts of the Republic of Tajikistan relating to licit trade in narcotic drugs, psychotropic substances and precursors; and
- Liquidation of the enterprise.

26. Decisions regarding the issue, suspension, cancellation or renewal of licences shall be taken by the Licensing Commission.

27. The Licensing Commission shall inform the licence-holder and the competent law enforcement authorities in writing of its decision to suspend or cancel a licence within three days of the decision.

28. The licence-holder shall return the licence to the Licensing Commission within three days of receipt of notification regarding its cancellation.

29. If the circumstances which have led to the suspension of a licence are somehow altered, the Licensing Commission shall take a decision on renewal of the licence within one week and inform the licence-holder and the competent law enforcement authorities of that decision.

30. Decisions and actions of the Licensing Commission shall be subject to appeal as provided by the relevant legislation of the Republic of Tajikistan.