



UNITED NATIONS

E/NL.1995/7-9

31 July 1995

ENGLISH

Original: PORTUGUESE

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.*

BRAZIL

Communicated by the Government of Brazil

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 [...].

E/NL.1995/7

ORDER N° 933 OF 8 DECEMBER 1994

E/NL.1995/8

PROVISIONAL MEASURE N° 756 OF 8 DECEMBER 1994

E/NL.1995/9

DECREE 1,331 OF 8 DECEMBER 1994

MINISTRY OF JUSTICE

OFFICE OF THE MINISTER

ORDER No. 933 OF 8 DECEMBER 1994

THE MINISTER OF STATE FOR JUSTICE,

In exercise of his powers under article 2 of Provisional Measure No. 756 of 8 December 1994, and for the purposes of Decree No. 1331 of 8 December 1994,

Considering that the prevention of any kind of act that might provide an opportunity for illicit activities connected with trafficking in narcotic substances and similar drugs is of vital importance to the nation,

Also considering that the illicit traffic in narcotic substances and similar drugs calls for widespread, vigilant and effective action to prevent such traffic,

Considering further that certain chemical products and inputs can be and undoubtedly are of use in processing narcotic substances or substances giving rise to physical or psychological dependence, in particular cocaine,

Orders as follows:

Article 1. Chemical products and materials occurring in the following forms shall be subject to control and monitoring in regard to their manufacture, production, storage, processing, packaging, sale, marketing, purchase, possession, transmission, transport, distribution, import, export, re-export, transfer and use:

- I. Acetone;
- II. Hydrochloric acid;
- III. Sulphuric acid;
- IV. Acetic anhydride;
- V. Chloroform;
- VI. Methylene chloride;
- VII. Ethyl ether;
- VIII. Methyl ethyl ketone;
- IX. Potassium permanganate;
- X. Sodium sulphate;
- XI. Toluene.

Article 2. This order shall enter into force on the date on which it is published.

ALEXANDRE DE PAULA DUPEYRAT MARTINS

PROVISIONAL MEASURE NO. 756 OF 8 DECEMBER 1994

Establishing requirements for the control and monitoring of chemical products and inputs usable in the production of cocaine in its various forms and in that of other narcotic substances or substances giving rise to physical or psychological dependence.

THE PRESIDENT OF THE REPUBLIC, in exercise of his powers under article 84 (XXVI) and pursuant to article 62 of the Constitution, adopts the following Provisional Measure having the force of law:

Article 1. All chemical products usable as inputs in making basic cocaine paste, washed paste and cocaine hydrochloride shall be subject to control and monitoring, as provided for in this Provisional Measure, in regard to their manufacture, production, storage, processing, packaging, sale, marketing, purchase, possession, exchange, transmission, transport, distribution, import, export, re-export, transfer and use.

Single paragraph. The foregoing provision shall also apply, as a regulation, to chemical products and inputs usable in making other narcotic substances or substances giving rise to physical or psychological dependence.

Article 2. The Minister of Justice, acting on his own initiative or on the proposal of the National Narcotics Office, the health control organ of the Ministry of Health or the drug enforcement organ of the Federal Department of Police, shall issue an order listing the chemical products and inputs referred to in the two provisions of article 1 and shall revise the list as required.

Article 3. For the purposes of this Provisional Measure the Federal Department of Police shall be responsible for the monitoring and control of such chemical products and materials and for the imposition of the administrative penalties herein provided.

Article 4. Undertakings that are established for the manufacture, processing and packaging of the chemical products and inputs referred to in articles 1 and 2 shall require an operating licence from the Federal Police, in addition to complying with any other statutory or regulatory requirements.

Single paragraph. Existing undertakings, even if registered with the Federal Department of Police, shall also take steps within 90 days to obtain such operating licence.

Article 5. The undertakings referred to in the two provisions of the preceding article shall require annual authorization to carry on their business.

Article 6. Any undertaking manufacturing, producing, storing, packaging, purchasing, selling, marketing, transporting, possessing, transmitting, importing, exporting, distributing, processing, transferring or making use of the chemical products and inputs referred to in articles 1 and 2 shall report monthly to the Federal Department of Police on the origin, destination and quantities stocked, produced, purchased, sold, used, distributed or resold of each of the said products and inputs.

Paragraph 1. The particular to be reported shall be entered in a register in which a daily record shall also be made of the invoice number, date of sale, quantity expressed in kilograms/litres of the chemical product or input sold, name or business name of the purchaser, his business address, the place of receipt of the goods, and the name of the recipients.

Paragraph 2. The information shall be accompanied by copies of the fiscal vouchers for such transaction, transport documents and such other documents as the Federal Department of Police may call for.

Article 7. Such chemical products and inputs shall be accompanied to their destination by a fiscal voucher and, if transported from one state to another, by a waybill issued by the Federal Department of Police.

Article 8. Persons purchasing or possessing monthly quantities of less than 250 ml or 200 g of the chemical products and inputs referred to in this Provisional Measure shall be exempt from any licensing or prior authorization requirement, but that shall not relieve the supplier of his obligation to comply with the control requirements now established.

Article 9. Prior authorization by the Federal Department of Police shall, in addition to compliance with the requirements of other competent bodies and with the three provisions of article 6, be necessary for importing, exporting or re-exporting the products dealt with in this Provisional Measure.

Article 10. Any persons producing, manufacturing, marketing, preparing, distributing, transporting, storing, importing or exporting such chemical products and inputs shall inform the Federal Department of Police immediately of transactions suspected of being intended for the preparation of cocaine and other narcotic substances or of substances giving rise to physical or psychological dependence.

Article 11. Failure to comply with the present rules shall, independently of criminal liability, render offenders liable to the following administrative measures or to any one or more of them:

- I. Seizure of the chemical products and inputs whose situation is unlawful;
- II. Suspension, or loss by the establishment, of its operating licence;
- III. A fine of between 500 and 500,000 Ufir* or subsequent standard units.

* Translator's note: Ufir is a monetary adjustment index.

Single paragraph. Appeal against the imposition of such penalties shall lie to the Director of the Federal Department of Police within a period of 15 days from notification of the penalty to the party concerned.

Article 12. The Federal Department of Police shall make arrangements for supplying the necessary schedules and forms for the implementation of this Provisional Measure.

Article 13. The fees arising from registration of undertakings and operating licences, waybills, and import, export and re-export permits shall be met by the party concerned.

Article 14. The expenditure arising from this Provisional Measure shall be met from the budgetary appropriations of the Federal Department of Police and the Harmful Drugs Prevention, Rehabilitation and Enforcement Fund (FUNCAB) as provided for in article 2 (IV) of Act No. 7560 of 19 December 1986.

Article 15. This Provisional Measure shall enter into force on the date on which it is published.

Brasília, 8 December 1994, the 173rd year of Independence and the 106th of the Republic.

ITAMAR FRANCO
Alexandre de Paula Dupeyrat Martins

DECREE 1,331 OF 8 DECEMBER 1994

Governing the control and monitoring of chemical products and inputs usable in the production of cocaine in its various forms and other narcotic substances or of substances giving rise to physical or psychological dependence, as covered by Provisional Measure No. 756 of 8 December 1994.

THE PRESIDENT OF THE REPUBLIC, in exercise of his powers under article 84 (IV), of the Constitution,

HEREBY DECREES THE FOLLOWING:

Article 1. The monitoring and control of the chemical products and inputs covered by Provisional Measure No. 756 of 8 December 1994, and the application of the penalties provided therein, shall be the responsibility of the Narcotics Enforcement Division of the Federal Police Department.

Article 2. The owner, director or head of the establishment involved must apply for an operating licence (annexes I, II and III) and provide the following documents:

- I. Copy of the founding deed of the undertaking and amendments thereto, duly registered with the competent authorities;
- II. Attestation of inclusion in the General Taxpayers' Register;
- III. Copy of the identity card and attestation of inclusion in the Individual Taxpayers' Register of the owner, director or head of the establishment;
- IV. Certificate attesting that the owner, director or head has no criminal record with the Federal and State Courts;
- V. Copy of the State Registration document;
- VI. List of the chemical products and inputs manufactured, processed or packaged by the undertaking;
- VII. Certificate of delegation issued by the legal representative of the undertaking or assignee empowered to apply for an operating licence, if applicable.

Single paragraph. Applications for operating licences must be sent to the Narcotics Enforcement Division, Brasilia, Federal District, at Autarquias Sul, Quadra 6, Lotes 09/10, Edificio Sede do Departamento de Policia Federal, CEP 70.037-900.

Article 3. The operating licence shall be valid for one year.

Article 4. The application for authorization to carry on the activities of the undertaking must be accompanied by the following documents:

- I. [Illegible]* operating licence;
- II. Copy of any changes in the social contract that may have occurred during the period;
- III. Certificates referred to in article 2 (IV) of this Decree.

Article 5. Undertakings producing, storing, purchasing, marketing, selling, exchanging, transporting, importing, exporting, distributing, possessing, using and processing chemical products and inputs that are subject to control and monitoring must provide the Narcotics Enforcement Division of the Federal Police Department with monthly information on the origin and end-use, as well as on the amounts stored, produced, purchased, sold, used, distributed or resold, of each product or input in question.

Paragraph 1. The information to be provided shall constitute a register in which the following details must also be entered daily: invoice number, date of sale, quantity expressed in kilograms/litres of the chemical product or input sold, name or business name of the purchaser, his business address, the place of receipt of the goods, and the names of the consignees.

Paragraph 2. The information must be accompanied by copies of the fiscal vouchers for the transactions, manifests and such other documents as the Narcotics Enforcement Division of the Federal Police Department may call for (annexes IV and V).

Article 6. The waybill for the interstate transport of chemical products and inputs must be issued by the Regional Superintendent's Office, Division or Office of the Federal Police Department responsible for the town where the selling or transferring undertaking is based, and it must contain details on the transporting vehicle, driver and itinerary.

Article 7. The waybill (annex VI), with a time-limit set by the issuing authority, shall not be transferable and shall be sent to:

- I. The purchaser;
- II. The supplier;
- III. The issuing Federal Police Department section;
- IV. The Federal Police Department section in the purchaser's district;
- V. The Narcotics Enforcement Division of the Federal Police Department.

* Translator's note: Possibly "expired".

Article 8. The import, export or re-export of chemical products and inputs shall require the prior authorization of the Narcotics Enforcement Division of the Federal Police Department.

Article 9. In the case of export or re-export, the party concerned must submit an authorization issued by the competent organ in the importing country.

Article 10. The prior authorization to import, export or re-export shall not be transferable, shall be time-limited, shall refer to only one transaction, and shall be issued in six copies, one for each of the following:

- I. The Foreign Trade Secretariat issuing the import or export waybill;
- II. The importer or exporter;
- III. The competent authority in the importing or exporting country;
- IV. The Federal Police Department section in the state where the import or export takes place;
- V. The Federal Police section where the importing or exporting establishment is based;
- VI. The Narcotics Enforcement Division of the Federal Police.

Article 11. Without prejudice to the monitoring or control exercised by other authorities, pursuant to laws or regulations, the Narcotics Enforcement Division of the Federal Police Department is hereby empowered to carry out any necessary inspections or examinations of persons or establishments covered by this Decree.

Article 12. The fees arising from registration of enterprises and operating licences shall be met by the parties concerned. The value of each transaction is hereby set at 150 Ufir or subsequent standard units.

Single paragraph. The fee for the provision of waybills and of import, export or re-export permits shall be 10 Ufir for each transaction.

Article 13. The fees mentioned in article 12 of this Decree and the fines imposed for infringements of Provisional Measure No. ... of ... December 1994 shall be paid into the Harmful Drugs Prevention, Rehabilitation and Enforcement Fund (FUNCAB), as provided for in article 2 (IV) of Law 7,560 of 19 December 1986.

Article 15.* This Decree shall enter into force on the date on which it is published.

Brasília, 8 December 1994, the 173rd year of Independence and the 106th year of the Republic.

ITAMAR FRANCO
Alexandre de Paula Dupeyrat Martins

* Translator's note: There is no article 14 in the original.