UNITED NATIONS

E/NL. 1993/54
7 April 1994
ENGLISH ONLY*

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.

GERMANY

Communicated by the Government of Germany

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 [...].

NOTIFICATION OF 23 NOVEMBER 1992 CONCERNING CONTROL MEASURES TO BE APPLIED IN FOREIGN TRADE OPERATIONS WITH NON-EC COUNTRIES IN RESPECT OF CERTAIN CHEMICALS FOR THE PURPOSE OF PREVENTING THEIR DIVERSION TO THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*Note by the Secretariat: This document is a direct reproduction of the translated text communicated to the Secretariat.

V.94-22259

THE FEDERAL MINISTER OF HEALTH

Notification
of 23 November 1992

concerning control measures to be applied in foreign trade operations with non-EC countries in respect of certain chemicals for the purpose of preventing their diversion to the illicit manufacture of narcotic drugs and psychotropic substances

1. Legal situation

(a) With immediate effect from 1 January 1993, Council Regulation (EEC) No. 3677/90 of 13 December 1990 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances (Official Journal of the European Communities No. L 357/1), as amended by Regulation (EEC) No. 900/92 of 31 March 1992 (Official Journal of the European Communities No. L 96/1), hereinafter referred to as the "basic regulation", is to be applied in all Member States. The text of the basic regulation, in its wording valid as from 1 January 1993, is reproduced as appendix 1 to this Notification.

(b) The Commission of the European Communities has issued implementing provisions pursuant to the first sentence of the second paragraph of article 10 (2), which are also to be applied in all Member States with immediate effect from 1 January 1993. The annex to the basic regulation has been amended by article 6 of this Regulation, as indicated in point 2 below. The implementing regulation to the basic regulation will shortly be published in the Official Journal of the European Communities (Part C).

2. Scheduled substances are:

Category 1:

Ephedrine, ergometrine, ergotamine, lysergic acid, 1-phenyl-2-propanone (phenylacetone), pseudoephedrine, N-acetylanthranilic acid (2-acetamidobenzoic acid), 3,4 methylenedioxyphenylpropan-2-one, isosafrole (cis + trans), piperonal, safrole; the salts of the substances listed, whenever the existence of such salts is possible;

Category 2:

Acetic anhydride, anthranilic acid, phenylacetic acid, piperidine; the salts of the substances listed, whenever the existence of such salts is possible;

Category 3:

Acetone, ethyl ether (diethyl ether), methylethyl ketone (MEK, butanone), toluene, potassium permanganate, sulphuric acid, hydrochloric acid (hydrogen chloride);

including mixtures containing substances listed in categories 1 to 3. This excludes pharmaceutical preparations or other preparations containing scheduled substances in a form whereby such substances cannot be easily used or recovered by currently available means.

3. **Authorization of operators**

Operators - other than customs agents, warehouse depositors and transporters when acting solely in that capacity - engaged in the import, export or transit of scheduled substances listed in category 1 are required to obtain a licence in order to carry on this activity.

Applications for this licence shall be submitted to:

Federal Public Health Administration
Pharmaceuticals Institute
Department G VI
Genthiner Strasse 38
W-1000 Berlin 30
Fax: 0 30-25 49 2210.

Applications must be accompanied by the following particulars:

(a) Name, forenames or commercial name and addresses of the applicant and persons responsible;

(b) Description of the substances in respect of which foreign trade operations are to be conducted;

(c) Nature of the foreign trade operations and expected annual quantity of individual substances;

(d) Proof of the qualifications and professional experience in this field of the person or persons responsible and, in the case of a corporate entity, the name, relevant qualification and professional experience of the authorized agent or other person responsible for ensuring that the export transactions are carried out in conformity with the legal provisions referred to in point 1 above;

(e) Where applicable, the name and addresses of the warehouse depositor and warehouse premises.

4. **Registration with the Federal Public Health Administration**

(a) Operators - other than customs agents, warehouse depositors and transporters when acting solely in that capacity - engaged in the import, export or transit of scheduled substances listed in category 2 are required, by the date of entry into force of the Regulation, to notify the Federal Public Health Administration (see point 3 above) of the addresses of the premises at which they manufacture such substances and/or from which they conduct their foreign trade operations, for the purposes of registration.

(b) Operators - other than customs agents, warehouse depositors and transporters when acting solely in that capacity - engaged in the export of scheduled substances listed in category 3 who, during the calendar year 1992, exceeded the annual quantities specified below, irrespective of the country to which the exports were made, are required, by 31 January 1993, to notify the Federal Public Health Administration (see point 3 above) of the addresses of the premises at which they manufacture such substances and/or from which they operate, for the purposes of registration. If the stated quantities are

exceeded in the course of the current calendar year, the registration requirement must be complied with immediately.

Acetone - 50 kg
Ethyl ether - 20 kg
Methylethyl ketone (MEK, butanone) - 50 kg
Toluene - 50 kg
Potassium permanganate - 5 kg
Sulphuric acid - 100 kg
Hydrochloric acid - 100 kg.

(c) In the case of mixtures as defined in the final subparagraph of point 2 above, if such mixtures contain substances listed in category 3, operators are exempt from the registration requirement if the quantity of the scheduled substance contained in the mixture did not exceed, during the previous calendar year, the quantities stated in (b) above.

5. Export authorizations

(a) An individual export authorization is required in the following cases:

(aa) For exports of substances listed in category 1;

(bb) For exports of substances listed in category 2 to Colombia, Ecuador and Peru;

(cc) For exports of acetic anhydride to Colombia, Guatemala, Iran, Lebanon, Myanmar (Burma), Singapore and Turkey.

(b) An open individual authorization is required in the case of exports:

(aa) Of anthranilic acid, phenylacetic acid and piperidine to countries other than those listed in (bb) of paragraph (a) above;

(bb) Of acetic anhydride to countries other than those listed in (bb) and (cc) of paragraph (a) above;

(cc) Of methylethyl ketone, toluene, potassium permanganate and sulphuric acid to Argentina, Bolivia, Brazil, Colombia, Ecuador, Guatemala and Peru;

(dd) Of acetone, diethyl ether and hydrochloric acid to Argentina, Bolivia, Brazil, Colombia, Ecuador, Guatemala, Iran, Lebanon, Myanmar (Burma), Peru, Singapore and Turkey.

If an open individual authorization cannot be issued, an individual export authorization is required.

6. Applications for export authorization

Requests for individual export authorizations or open individual authorizations shall be made using the relevant form in triplicate, which is reproduced as appendix 2. Blank forms are obtainable from:

Bundesanzeiger Verlagsgesellschaft mbH
P.O. Box 10 80 06
D-5000 Cologne 1
Tel.: 02 21/20 29 121/123
Fax: 02 21/20 29 278.

The instructions appearing on the reverse side of the forms should be followed.

In the case of applications for open individual authorizations, the following particulars are additionally to be supplied:

(a) Details in summary form of exports of the scheduled substances concerned that have been made to the country concerned in the 12 months preceding the application;

(b) Details of the precautions that have been adopted for the purpose of preventing the diversion of scheduled substances to the illicit manufacture of narcotic drugs and psychotropic substances, in particular measures taken in compliance with article 3 of the basic regulation.

7. Reporting

Operators in possession of an open individual authorization must submit to the Federal Public Health Administration at the end of each quarter, in summary form, a report concerning the export operations carried out under the authorization.

Such reports are to contain at least the following details: number of transactions, the substances concerned, their quantities and the countries of destination.

8. Customs clearance

In all the cases listed in point 5 above, the export authorization - whether in the form of an individual export authorization or an open individual authorization - shall be presented for inspection when the export declaration is lodged. In addition, a copy of the corresponding authorization must accompany the export consignment up to arrival at the customs office at the intended point of exit of the scheduled substances from the Community customs territory. With effect from 1 January 1993, any requests for export clearance of scheduled substances for which the required export authorization is not submitted will be rejected. Rejection will also take place if, in the case of an individual export authorization, the particulars concerning the means of transport, itinerary, expected point of exit from the Community customs territory and place of entry into the importing country are not stated in the export authorization at the time of export, or if, in accordance with article 6 of the basic regulation, there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

9. Other obligations of operators

The basic regulation additionally lays down the following further measures in all cases of import, export and transit of scheduled substances:

(a) Operators must, in strict compliance with article 2 of the basic regulation, keep proper documents and records in respect of all transactions and use the prescribed labelling;

(b) Cooperation as referred to in article 3 of the basic regulation shall be ensured by operators undertaking the voluntary measures that have been agreed between the Federal Government on the one hand and the German chemical industry and the chemicals trade on the other, with a view to preventing the diversion of scheduled substances.

Bonn, 23 November 1992
327-5672-06/1

The Federal Minister of Health

By order

Prof. Dr. Steinbach