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SPANISH AND ENGLISH ONLY
ORIGINAL: SPANISH

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.

SPAIN

Communicated by the Government of Spain

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 [...].

**ORDER OF 15 NOVEMBER 1994 REGULATING THE CONTROL OF
SCHEDULED SUBSTANCES LIABLE TO DIVERSION**

THE PRIME MINISTER'S CHANCELLERY

25771. ORDER of 15 November 1994 regulating the control of scheduled substances liable to diversion

Council Regulation (EEC) No. 3677/90 of 13 December 1990 (OJ No. L 357 of 20.12.1990), as amended by Council Regulation (EEC) No. 900/92 of 31 March 1992 (OJ No. L 96 of 10.4.1992), lays down a series of measures to prevent the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances. In implementation thereof, the Order of 10 December 1991 (*Official Gazette* of 19.12.1991) was promulgated.

The aforementioned Regulation was, as far as the Commission of the European Communities is concerned, implemented and in turn amended by Commission Regulation (EEC) No. 3769/92 of 21 December 1992 (OJ No. L 383 of 29.12.1992) and Commission Regulation (EEC) No. 2959/93 of 27 October 1993 (OJ No. L 267 of 28.10.1993). The present Order puts into effect those aspects of the Regulation whose application is incumbent upon the member States and reproduces, wholly or in part, certain provisions contained in these EEC Regulations in order to facilitate understanding of the rules but without thereby impeding the direct applicability thereof. With the approval of the Minister of Public Administration and at the proposal of the Ministers of Justice and the Interior, Finance and Economic Affairs, Industry and Energy, Health and Consumer Affairs, Social Affairs, and Trade and Tourism, I accordingly rule as follows:

One. *Licensing*

1. Substances listed in category 1. — 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 of annex I, or of mixtures containing such substances, shall be required to obtain a licence to qualify for such activity.

2. Application. — Operators shall for such purpose submit an application to the Department of Customs and Special Levies of the State Agency for Tax Administration.

3. Operator. — For the purposes of this Order, the term “operator” shall mean any natural or legal person engaged in the manufacture, production, trade or distribution, in the European Community, of scheduled substances listed in annex I, or involved in other related activities such as import, export, transit, broking and processing of such scheduled substances. This definition includes, in particular, persons pursuing the activity of making customs declarations on a self-employed basis, either as their principal occupation or as a secondary activity related to another occupation.

4. Particulars of applications. — The application for a licence shall contain the following particulars:

Name, business name, tax identification number and address of the operator;

Details of foreign trade operations involving such scheduled substances carried out in the preceding calendar year;

Purposes for which such substances are used;

Destination of such substances, in the case of export or transit;

An undertaking to utilize the substances for lawful purposes.

5. Decision

5.1 The Department of Customs and Special Levies shall issue its decision within a period of three months from receipt of the application.

5.2 With regard to the granting or refusal of a licence and also its suspension or revocation, the provisions of article 2a of Council Regulation (EEC) No. 3677/90 shall be observed.

5.3 The application may be understood to be rejected if no express decision is rendered within the aforementioned period.

6. Customs clearance. — No import, export or transit clearance of such substances shall be carried out unless the declaration bears the licence number of operators who are required to possess such a number in order that those operations may be carried out.

Two. *Registration*

1. Substances listed in category 2. — The import, export and transit of scheduled substances listed in category 2 of annex I, or of mixtures containing such substances, shall be subject to the prior registration of the operators, other than customs agents, warehouse depositors and transporters when acting solely in that capacity, in the register established for such purpose at the Department of Customs and Special Levies of the State Agency for Tax Administration.

2. Substances listed in category 3. — The export of scheduled substances listed in category 3 of annex I, or of mixtures containing such substances, shall be subject to the prior registration of the operators in the register referred to in the preceding paragraph. Operators whose exports of such substances, or of mixtures containing such substances, have not exceeded the following amounts during the preceding calendar year shall be exempt from this registration requirement:

Substance	Quantity kg
Acetone	50
Ethyl ether	20
Methyl ethyl ketone	50
Toluene	50
Potassium permanganate	5
Sulphuric acid	100
Hydrochloric acid	100

However, if such amounts are exceeded in the course of the calendar year, registration in the register shall become obligatory as soon as the aforesaid maximum quantities are exceeded.

3. Particulars of applications. — Operators shall apply for registration, stating the following:

Name, business name, tax identification number and address of the operator;

Addresses of the operator's factories, premises or warehouses;

An undertaking to report any change in those addresses.

4. Customs clearance. — No import, export or transit clearance, as the case may be, shall be carried out unless the declaration bears the operator registration number allocated to operators who are required to possess such a number in order that those operations may be carried out.

Three. *Exportation of scheduled substances listed in category 1 of annex I*

1. Authorization to export scheduled substances. — The exportation of scheduled substances listed in category 1 of annex I shall, irrespective of the provisions of Section One above, be subject to prior authorization to export scheduled substances, issued by the Department of Customs and Special Levies, in conformity with the specimen appearing in annex II, upon application by the exporter.

2. Submission of applications. — The application shall be filed with the Department of Customs and Special Levies of the State Agency for Tax Administration.

3. Particulars of applications. — The application for authorization to export scheduled substances shall contain the following particulars:

Name, business name and address of:

Exporter,
Importer,
Ultimate consignee,
Customs agents,
Other operators;

Name of the substance, as given in annex I;

Quantity and weight. In the case of preparations not excluded under Council Regulation (EEC) No. 3677/90 of 13 December 1990, the quantity and weight of any substance or substances listed in annex I which are contained in the composition thereof;

Details of transport arrangements:

Customs office where clearance formalities will be carried out,
Expected date of dispatch,
Means of transport,
Itinerary,
Point of exit from Community customs territory,
Point of entry into the importing country;

Copy of the authorization, if applicable, in accordance with the provisions of paragraph 10;

Other.

4. Decisions on applications

4.1 The Department of Customs and Special Levies shall issue its decision within a period of 15 working days from receipt of the application.

4.2 A favourable decision shall give rise to the granting and issue to the party concerned of an authorization to export scheduled substances.

4.3 The application may be understood to be rejected if no express decision is rendered within the aforementioned period.

5. Refusal. — The Department of Customs and Special Levies may reject an application for authorization to export scheduled substances if, in accordance with the provisions of Council Regulation (EEC) No. 3677/90, any of the following circumstances exist:

The information supplied may reasonably be presumed to be false or incorrect;

The importation of the substance has not been authorized in the country of destination, in accordance with the stipulations contained in paragraph 10;

There are reasonable grounds for suspecting that the substance is intended for the illicit manufacture of narcotic drugs or psychotropic substances.

6. Requests for pre-export notification. — Where the Commission of the European Communities states that a third country has requested pre-export notification of scheduled substances, the Department of Customs and Special Levies shall not issue the corresponding authorization to export scheduled substances until it has effected such pre-export notification.

7. Prior import authorization. — Where a third country so requires, the authorization to export scheduled substances shall not be issued until the Department of Customs and Special Levies has been furnished with a copy of the authorization to import into that country, confirmation of which may be requested.

For the purposes provided for in the present article, the aforesaid Department shall publish a list of countries requiring the prior granting of import authorization.

8. Export clearance. — Requests for export clearance of substances listed in category 1 of annex I shall be subject to the presentation, together with the clearance declaration and the documentation required by the regulations, of copy No. 2 of the authorization to export scheduled substances.

The customs office at which the export formalities are carried out shall, after conducting the appropriate verifications, complete box 20 of the authorization and attach a duplicate of copy No. 2 to the clearance declaration.

If exit from the Community customs territory takes place through a customs office other than that by which export clearance was effected, the customs office at the point of exit shall, after conducting the

appropriate verifications, complete box 21 and hand over copy No. 2 to the customs office at which the export formalities were carried out.

If after the expiry of two months from the date of export clearance the customs office where the export formalities were carried out has not received copy No. 2, duly completed by the customs office at the point of exit, it shall notify the Department of Customs and Special Levies thereof.

Four. *Exportation of scheduled substances listed in category 2 of annex I*

1. Authorization to export scheduled substances. — The exportation of scheduled substances listed in category 2 of annex I shall be subject to prior authorization to export scheduled substances, issued by the Department of Customs and Special Levies, which authorization may be individual or open. With regard to the granting thereof, the provisions of Section Three above shall be observed in the case of individual authorizations and the provisions of Section Six below in the case of open authorizations.

2. Individual authorizations. — The authorization shall be an individual authorization for each export operation if, in accordance with the provisions of Regulation (EEC) No. 3677/90, there are grounds for suspecting that the substances may be diverted to the illicit manufacture of narcotic drugs or psychotropic substances;

Also, in all cases where it is intended to export acetic anhydride to any of the following countries:

Colombia
Guatemala
Hong Kong
India
Iran
Lebanon
Malaysia
Myanmar (Burma)
Singapore
Syria
Thailand
Turkey.

Five. *Exportation of scheduled substances listed in category 3 of annex I*

1. Authorization to export scheduled substances. — The exportation of scheduled substances listed in category 3 of annex I shall be subject to the granting of an individual or open authorization to export scheduled substances in the following cases:

(a) Where it is intended to export:

(I)

Substances	Countries of destination
Methyl ethyl ketone and its salts Toluene and its salts Potassium permanganate and its salts Sulphuric acid	Argentina Bolivia Brazil Chile Colombia Costa Rica El Salvador Ecuador Guatemala Honduras Hong Kong Panama Paraguay Peru Syria Thailand Uruguay

(II)

Substances	Countries of destination	
Acetone and its salts Ethyl ether and its salts Hydrochloric acid	Argentina Bolivia Brazil Chile Colombia Costa Rica El Salvador Ecuador Guatemala Honduras Hong Kong	Iran Lebanon Panama Paraguay Peru Myanmar (Burma) Singapore Syria Thailand Turkey Uruguay

(b) Where the country of destination requires that exports to it shall not be authorized until it has granted authorization to import any of the scheduled substances into that country.

For such purposes, the Department of Customs and Special Levies shall publish a list of countries requiring the prior granting of import authorization.

2. Granting of export authorization. — With regard to the granting of export authorization as aforesaid, the provisions of Section Three above shall be observed in the case of individual authorizations and the provisions of Section Six below in the case of open authorizations.

3. Open authorizations. — Whenever the circumstances so allow and provided that there are no grounds for suspecting diversion to the illicit manufacture of narcotic drugs or psychotropic substances, the authorization to export scheduled substances may be an open authorization.

Six. *Open authorizations*

1. Application. — Regular operators intending to export scheduled substances listed in categories 2 and 3 of annex I under the cover of an open authorization to export scheduled substances (annex III) shall in their application, in accordance with the provisions of Regulation (EEC) No. 3769/92, provide the Department of Customs and Special Levies with:

(a) Evidence of their qualifications and professional experience;

(b) Summary information on exports of scheduled substances made in the preceding 12 months, specifying:

Substance exported,

Total number of consignments effected,

Quantities exported to each country of destination;

(c) An undertaking not to utilize the substances for unlawful purposes, and a description of the measures adopted to prevent their illicit use;

(d) An undertaking to report any suspicious circumstance which allows the presumption of their illicit use;

(e) An undertaking to provide all aggregate details requested of them concerning exports of these substances;

(f) An undertaking to report any changes in the furnished information.

2. Processing of applications. — The processing of an application for an open authorization shall be subject to the provisions contained in Section Three above and to the special rules set out in the present Section.

3. Suspension or revocation. — The Department of Customs and Special Levies shall be entitled to suspend or cancel a previously granted open authorization to export scheduled substances if:

(a) The information supplied is believed to be incorrect or ceases to be correct;

(b) The measures adopted to prevent the utilization of the substances for unlawful purposes are deemed to be insufficient;

(c) The quarterly summaries referred to in point 4 (e) below are not supplied.

4. Obligations. — The holder of an open authorization to export scheduled substances shall be obliged to:

- (a) Indicate the open authorization number on each export declaration;
- (b) Record the operation in his records as soon as the substance leaves his premises for exportation;
- (c) Enter in those records the details of the authorization to import the substance into the country of destination, if such authorization is required;
- (d) Accompany each export consignment by a copy of the open authorization until its exit from the Community customs territory;
- (e) Furnish the Department of Customs and Special Levies with quarterly summaries of export operations carried out under such open authorization.

These summaries shall contain, as a minimum, the following information:

Number of export operations;

Substances exported: name and quantity;

Countries of destination.

Seven. *Prohibition of importation or exportation*

The Department of Customs and Special Levies shall be empowered to prohibit the importation into our country of scheduled substances listed in annex I, or their exportation, whenever there are reasonable grounds for believing that such substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

Eight. *Operations from free zones or bonded warehouses*

Operations involving scheduled substances listed in annex I that are intended to be carried out from free zones or bonded warehouses shall be subject to compliance, by the operators, with the same requirements and conditions as set forth in the foregoing articles.

Nine. *Authorization of the State Agency for Tax Administration*

The present Order may be amended by resolution of the President of the State Agency for Tax Administration in cases relating to the application of Community regulations which so require.

Ten. *Powers of the Department of Customs and Special Levies*

The Director of the Department of Customs and Special Levies of the State Agency for Tax Administration shall be empowered to issue such instructions as may be necessary for the enforcement and implementation of the provisions contained herein.

Eleven. *Supplementary application of Law No. 30/1992*

Except where provided for by the legislation of the European Community, the procedures dealt with in the present Order shall be subject to the provisions contained in Law No. 30/1992 of 26 November 1992 and to the general rules concerning administrative authorization procedures.

Twelve. *Annulment*

The Order of 10 December 1991 is hereby annulled.

Madrid, 15 November 1994.

PEREZ RUBALCABA

The Ministers of Justice and the Interior, Finance and Economic Affairs, Industry and Energy, Health and Consumer Affairs, Social Affairs, and Trade and Tourism.

ANNEX I

Substance	CN denomination (if different)	CN code
<i>Category 1</i>		
Ephedrine		29394010
Ergometrine		29396010
Ergotamine		29396030
Lysergic acid		29396050
1-phenyl-2-propanone	Phenylacetone	29143010
Pseudoephedrine		29394030
Acetylanthranilic acid	2-acetamidobenzoic acid	29242950
3,4-methylenedioxyphenyl-2-propanone		29329077
Isosafrole (cis + trans)		29329073
Piperonal		29329075
Safrole		29329071
<p>The salts of the substances listed in this category, whenever the existence of such salts is possible.</p>		
<i>Category 2</i>		
Acetic anhydride		29152400
Anthranilic acid		29224950
Phenylacetic acid		29163300
Piperidine		29333930
<p>The salts of the substances listed in this category, whenever the existence of such salts is possible.</p>		
<i>Category 3</i>		
Acetone		29141100
Ethyl ether	Diethyl ether	29091100
Methyl ethyl ketone	Butanone	29141200
Toluene		29023010/90
Potassium permanganate		28416010
Sulphuric acid		28070010
Hydrochloric acid	Hydrogen chloride	28061000
<p>The salts of the substances listed in this category, except for sulphuric acid and hydrochloric acid, whenever the existence of such salts is possible.</p>		

ANNEXES II AND III

Export authorization forms

[...]