



UNITED NATIONS

E/NL.2001/2  
01 March 2001  
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*

#### 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 [...].

PROVIVIONAL MEASURE 1780-6 (11 FEBRUARY 1999)

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

<p style="text-align: center;"><b>PROVISIONAL MEASURE AND ADMINISTRATIVE RULE PROVIDING FOR INJUNCTIVE RELIEF</b></p>
---

**OFFICIAL GAZETTE**  
**No. 9, Wednesday 14 JAN 1999**

**PROVISIONAL MEASURE no. 1,780-6 of 11 FEBRUARY 1999**

**Amends the wording of Article 34 of Law no. 6,368 of 21 October 1976, concerning measures for preventing and suppressing illicit traffic in and improper use of narcotic substances and substances that cause physical or psychological dependence.**

**THE PRESIDENT OF BRAZIL** using the powers vested in him by Art. 62 of the Constitution, hereby adopts the following Provisional Measure with the force of law.

Art. 1. Article 34 of Law no. 6,368 of 21 October 1976 hereby becomes effective with the following wording.

“Art. 34. Vehicles, vessels, aircraft and any other means of transport, as well as equipment, utensils, instruments and objects of any nature used for the commission of crimes defined in this act, after regular seizure, shall remain in custody of the law enforcement service, with the exception of firearms, which shall be collected as determined under the specific legislation.

.....

Para. 3. Should the seized assets referred to in the **preamble** include money or cheques issued for payment, the law enforcement authorities in charge of the inquiries shall, as a matter of urgency, request the judge responsible for the case to notify the Attorney General’s Office.

Para. 4. On being notified, the Attorney General’s Office shall request the judge to convert the sum seized into Brazilian currency if necessary, cash cheques issued after the order for the inquiry, with authenticated copies of the corresponding papers, and deposit the corresponding sums in a judicial account, with the receipt being put together with the records of the case.

Para. 5. Should the seized assets include assets not provided for in the preceding paragraphs, the Attorney General’s office shall request the judge responsible for the case, by means of an autonomous petition, to proceed as a precautionary measure with the

disposal of the seized goods, except for those that the Federal Executive, through the National Antidrug Secretariat (Secretaría Nacional Antidrogas, SENAD) decides should be placed under the custody of the law enforcement authorities or the federal military or intelligence agencies involved in operations to prevent and suppress illicit traffic and improper use of narcotic substances and substances that cause physical or psychological dependence.

Para. 6. The request for disposal shall include a list of all of the seized assets, except for the assets selected by the Federal Executive through SENAD for the ends provided for in the preceding paragraph, with a description and specification of each and information on who has custody of them and where they are in custody.

Para. 7. The disposal of an asset having been requested, the corresponding petition shall be separately recorded, and the official record shall proceed separately from the penal action.

Para. 8. The application for disposal having been officially recorded, the case records shall be referred to the judge, who shall verify that there is an instrumental link between the offence and the objects used to commit it and that there is a risk of loss of economic value over time, and shall arrange for the valuation of the listed assets, and inform the Federal Executive, the Attorney General's Office and the interested party, where appropriate, possibly by public notice with a period of five days.

Para. 9. The assets having been valued and any divergences relating to the resulting expert opinion having been settled, the judge shall issue a judgment ratifying the value attributed to the assets, and establishing that they shall be disposed of immediately by auction.

Para. 10. The assets having been auctioned and the sum raised having been deposited in a judicial account, the Federal Executive shall be summoned to offer a guarantee, as provided for in the regulations, equivalent to the said sum and to other monies deposited under the terms of Para. 4, in the form certificates issued by the National Treasury, with characteristics to be defined by the Minister of State for Finance.

Para. 11. SENAD shall be responsible for requesting the Secretary of the National Treasury to issue the certificates referred to in the preceding paragraph.

Para. 12. The guarantee having been issued, the sum in the judicial account shall be transferred to the Federal Executive by payment into the account of the National Antidrug Fund (FUNAD), with the case records relating to the disposal being appended to those of the main action.

Para. 13. In the sentence on the merits, the judge shall decide, in the records of the discovery proceedings, as to the forfeiture of the assets and sums mentioned in paragraphs 4 and 5 and the release of the guarantee.

Para. 14. In the event of the guarantee being released, the certificates referred to in Para. 10 shall be redeemed at their face value, with the money for payment being provided by FUNAD.

Para. 15. The office of the Secretary of the National Treasury shall register the appropriation of funds to pay for the certificates referred to in Para. 10.

Para. 16. In the event of forfeiture of the assets and sums referred to in paragraphs 4 and 5 in favour of the Federal Executive, the Office of the Secretary of the National Treasury shall arrange for the cancellation of the certificates issued in order to guarantee them.

Para. 17. Appeals filed against the judgments during the course of the proceedings described in this article shall not have the effect of suspending the same.

Para. 18. The Federal Executive is empowered to enter into agreements, through SENAD, with the States, with the Capital District and with bodies involved in preventing, suppressing and treating drug dependence, for the release of funds raised by the Executive under the terms of this article, to introduce and carry out programmes for combating the illicit traffic and improper use of narcotic substances and substances that cause physical or psychological dependence.

Para. 19. The courts are empowered to rule for the disposal of seized assets under the terms of this article in penal processes in progress, if requested by the Attorney General's Office.

Para. 20. SENAD shall be empowered to enter into co-operation agreements aimed at promoting immediate disposal of goods that have had their forfeiture decreed, in favour of the Federal Executive, and have not been sold at auction." (new wording)

Art. 2. Article 5 of Law no. 7,560 of 19 December 1986, as amended by Law no. 8,764 of December 1993, shall become effective with the following wording.

"Art. 5 .....

VII - for the costs of its own management and for covering expenses arising out of the duties performed by the National Antidrug Secretariat;

VIII - for paying for the redemption of certificates issued by the National Treasury as a guarantee for funds transferred to the FUNAD account.

Sole Paragraph. At least twenty percent of the money resulting from the disposal of the assets referred to in Art. 4, up to a maximum of forty percent, and by agreement, shall be allocated to the Federal Police and to the police forces of the states and the Capital District responsible for the seizure thereof." (new wording)

Art. 3. Acts based on Provisional Measure no. 1,780-5 of 13 January 1999 are hereby revalidated.

Art. 4. This Provisional Measure shall take effect from its date of publication.

Art. 5. Art. 34, Para. 1 of Law no. 6,368 of 21 October 1976 is hereby revoked.

Brasilia, 11 February 1999; the 178th year of independence and the 111th year of the Republic.

FERNANDO HENRIQUE CARDOSO

Pedro Malan

Clovis de Barros Carvalho