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**E/NL.2003/04-08**

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## **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.

### **COLOMBIA**

Communicated by the Government of Colombia

#### **NOTE BY THE SECRETARIAT**

- (a) International non-proprietary names in the text have been underlined by the Secretariat.
- (b) 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.
- (c) 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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**RESOLUTION NO. 018 OF 14 MAY 1987**

**Supplementing Resolution No. 009<sup>1</sup> of 18 February 1987**

**THE NATIONAL NARCOTIC DRUGS COUNCIL**

**In exercise of the powers conferred on it by article 91, paragraph (c), of  
Law No. 30<sup>2</sup> of 1986, and**

**WHEREAS:**

In Resolution No. 009 of 1987, the National Narcotic Drugs Council regulated the import, manufacture, distribution, transport and use of substances referred to in article 20, paragraph (f), of Law No. 30 of 1986; and

It has become necessary to supplement article 2 of Resolution No. 009 of 1987 to achieve more effective monitoring of the activities mentioned above,

**HEREBY RESOLVES:**

**ARTICLE 1.** Article 2 of Resolution No. 009 of 1987 shall read as follows: The individuals or bodies corporate classified in this Resolution as importers, producers, distributors and consumers of the substances referred to in article 1 of this Resolution must register with the Ministry of Health and apply to the National Narcotic Drugs Council for the certificate attesting to the absence of [drug-trafficking] reports whenever the quantities involved exceed:

5 kilograms a month in the case of solids.

5 litres a month in the case of liquids.

110 gallons a month in the case of thinners.

**ARTICLE 2.** This Resolution shall enter into force on the date of its publication.

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<sup>1</sup> *Note by the Secretariat:* E/NL.1987/71.

<sup>2</sup> *Note by the Secretariat:* E/NL.1986/12.

E/NL.2003/05

**RESOLUTION NO. 031 OF 13 JUNE 1991****THE NATIONAL NARCOTIC DRUGS COUNCIL**

**In exercise of the powers conferred on it by article 91, paragraph (c), of  
Law No. 30<sup>1</sup> of 1986, and**

**WHEREAS:**

In Resolution No. 009<sup>2</sup> of 18 February 1987, the National Narcotic Drugs Council regulated the import, manufacture, distribution, transport and use of chemical precursors.

In Decree No. 2894<sup>3</sup> of 3 December 1990 the National Executive regulated the procedure for the issuance of the certificate testifying to no known drug trafficking by the National Narcotic Drugs Council; and

That it is necessary to regulate the system for renewing this certificate,

**HEREBY RESOLVES:**

**ARTICLE 1.** Article 11 of Resolution No. 009 of 18 February 1987 of the National Narcotic Drugs Council shall read as follows:

**ARTICLE 11. RENEWAL:** Application for renewal of the certificate must be made at the latest three (3) months prior to its expiry, with the following documentation to be attached:

- Application specifying the end use, requesting authority and required quantities; indication of the supplier, use and final consignee; list and description of storage areas and measurement and security systems for unloading and delivering chemical substances.
- Certificate of incorporation and administration, issued by the Chamber of Commerce or Trading Register, as appropriate, not more than three (3) months previously.
- Authenticated photocopy of the citizenship or nationality papers in the case of an individual or commercial establishment; in the case of bodies corporate, those of the members of the governing and supervisory bodies, both principals and their alternates, and of the governing bodies and the legal representative of their joint-stock companies and of partners or shareholders owning twenty per cent (20%) or more of the share capital.
- Aliens must submit a similar or equivalent certificate from the police authorities of the country of residence or principal domicile.
- Most recent declaration of the [Chambers of] Industry and Commerce.
- Latest revised version of the articles of association if the company underwent a reorganization during the last year.

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<sup>1</sup> Note by the Secretariat: E/NL.1986/12.

<sup>2</sup> Note by the Secretariat: E/NL.1987/7.

<sup>3</sup> Note by the Secretariat: E/NL.1991/38.

- Receipts for the certificate-issuance fee and for the charges determined by the National Narcotic Drugs Council; and
- Other specific documents required in accordance with the provisions of the legislation in force.

Paragraph I. The National Narcotic Drugs Directorate shall proceed as follows:

(a) It shall simultaneously request the competent authorities to provide substantiated information from the records contained in the files in their possession on the complicity of the applicants in activities connected with drug-trafficking and related offences, illicit acquisition of wealth or other offences described in article 6 of Decree No. 1856<sup>4</sup> of 1989.

The competent authorities shall have a period of fifteen days to submit the requested information in writing.

(b) Where provided for in the application and in the case of chemical substances subject to control, in particular with regard to the determination or changing of allocations, it shall arrange for the police authorities in cooperation with auditors, chemical or pharmaceutical engineers or industrial or marketing experts to inspect the applicant's facilities and provide a report on the following:

Security devices and procedures for controlled raw materials; stocks and substances being processed; a technical report on use in volumetric terms; means of transport, packaging and industrial safeguards for measurement, handling and prevention of waste; suppliers and their customers, volume of purchases and sales, and the industrial and commercial record of the applicants.

The document, duly signed by the inspection team and the applicant, shall be returned to the National Narcotic Drugs Directorate on the day after the date on which it is signed.

In the case of applicants domiciled or resident outside Bogotá, D.E., it shall arrange for the inspection to be coordinated by the local national police authority.

The inspection team shall have fifteen (15) days to complete the inspection and the experts fifteen (15) days to submit their report.

The National Narcotic Drugs Council shall determine the fees to be paid to the experts involved, the method of drawing up the lists, their designation and the costs of tests.

(c) Where applicable, the National Narcotic Drugs Directorate may request official or technical reports from the Business Supervisory Authority [*Superintendencia de Sociedades*] concerning the applicants and reported activities by them regarding illicit trade in the substances in question.

Paragraph II. Provided that the application for renewal is presented within the time-limits, there are no negative reports and the inspection document and expert report on the chemical substances in question have been received, the National Narcotic Drugs Directorate may apply article 5 of Decree No. 2894 of 1990 from the date of expiry of the certificate.

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<sup>4</sup> Note by the Secretariat: E/NL.1992/3.

Paragraph III. An interim certificate testifying to no known drug trafficking may not be issued under any circumstances.

Paragraph IV. The application for renewal of certificates testifying to no known drug trafficking intended for the Civil Aviation Administrative Department shall also be submitted within the time-limits specified in this Resolution, but no inspection visit shall be required except in the case of the design, construction and alteration of aerodromes or landing strips and installations.

In this case, the Civil Aviation Administrative Department shall be requested to submit to the National Narcotic Drugs Directorate a report on the aerodromes existing in the region, their facilities and technical limitations for navigation, the operating conditions permissible in connection with the project and an evaluation of the need for the planned work.

Paragraph V. In the event that issuance of the certificate is refused, the National Narcotic Drugs Directorate shall inform the applicant of its reasons in order to enable it to clarify its legal position with the competent authorities.

In determining the authorized number, quantity and frequency of supply of the chemical substances, the National Narcotic Drugs Directorate shall take into account the applicant's previous record, its financial means, its previous and current consumption and marketing needs, the basis for the increase where applicable, the safeguards for storage, measurement, delivery and prevention of wastage and, in all cases, the actual needs of the national industry.

In the certification of the design, construction and alteration of aerodromes or landing strips and installations, the improvement may be rejected if the existing installed technical capacity of the aeronautical infrastructure in the region is adequate.

**ARTICLE 2.** The police authorities may at any time conduct inspections to prevent the diversion of controlled chemical substances from their legitimate use by inspecting the stock control ledger and measuring instruments, taking samples of raw materials and finished products, sounding the tanks, inspecting the storage facilities and obtaining expert opinions, the costs of which shall be borne by the owner of the chemical substances.

**ARTICLE 3.** Article 12 of Resolution No. 009 of 18 February 1987 and Resolution No. 056<sup>5</sup> of 1 September 1988 issued by the National Narcotic Drugs Council and other conflicting provisions issued by the Council are hereby repealed.

**ARTICLE 4.** This Resolution shall enter into force on the date of its issue.

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<sup>5</sup> Note by the Secretariat: E/NL.1988/48.

**DECREE NO. 2272 OF 4 OCTOBER 1991**

**Adopting as permanent legislation some of the provisions enacted in exercise of the powers provided for in a state of emergency**

**The President of the Republic of Colombia, in exercise of the powers conferred on him by article 8 of the Political Constitution, and**

**WHEREAS:**

The Government is authorized by transitional article 8 of the Political Constitution to convert into permanent legislation decrees that the special commission has not disapproved which were enacted in exercise of the powers provided for in a state of emergency; and

The special commission created by transitional article 6 of the Political Constitution, in exercise of the power conferred in paragraph (a) of that article, decided not to disapprove the adoption as permanent legislation of Decree No. 2390<sup>1</sup> of 1989, 042 of 1990, 494 of 1990, 1146<sup>2</sup> of 1990, 1813 of 1990, 2187 of 1990, 2894<sup>3</sup> of 1990 and 2790 of 1990,

**HEREBY DECREES:**

**ARTICLE 1. The following provisions of Decree No. 2390 of 1989 shall be adopted as permanent legislation:**

Article 5. Following a conviction for any of the offences mentioned in article 9 of Decree No. 2790 of 1990, the seized or confiscated assets shall be assigned, by the National Narcotic Drugs Directorate and on a provisional basis and by the competent judge on a final\* basis to, inter alia, the entities named below:

1. Immovable rural property: to the National Agrarian Fund.
2. Immovable urban property: to entities linked or attached to the Ministry of Health, the Red Cross, the Civil Defence Authority or other non-profit organizations, subject to the discretion of the National Narcotic Drugs Council or the competent judge.
3. Motor vehicles, movable property of any kind not specifically intended for any purpose, securities, cash and foreign currency: to the Security Fund of the Jurisdictional Branch or to the Administrative Department of Security (DAS).
4. Aircraft, light aeroplanes and helicopters: to the Ministry of National Defence, the National Police, the Colombian Air Force or the national airline company SATENA, according to the allocation made by the Ministry of National Defence.

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\* *Translator's note:* The previous translation of Decree No. 2390 gives the term "definite" instead of "final"; this is felt to be a mistranslation of the Spanish word "definitiva", meaning final or unappealable.

<sup>1</sup> *Note by the Secretariat:* E/NL.1992/7.

<sup>2</sup> *Note by the Secretariat:* E/NL.1991/37.

<sup>3</sup> *Note by the Secretariat:* E/NL.1991/38.

5. Firearms and ammunition: to the Ministry of National Defence or to the Administrative Department of Security (DAS).

6. Radio and communications equipment: to the Ministry of National Defence.

7. Livestock and agricultural machinery: to the National Agrarian Fund, destined for assignment to the immovable property concerned.

8. Movable property having an artistic or literary value: to the Colombian Institute of Culture (Colcultura).

9. Vessels and naval, marine or river craft: to the Ministry of National Defence, the Colombian Navy, the General Maritime and Port Authority or SENARC, according to the allocation made by the Ministry of National Defence.

**ARTICLE 2. The following provisions of Decree No. 042 of 1990 shall be adopted as permanent legislation:**

Article 3. The consignees or depositaries of cash or foreign currency confiscated under article 9 of Legislative Decree No. 2790 of 1990, in accordance with article 1 of Decree No. 099 of 1991, shall, for all legal effects, have the rights and obligations of the depositary referred to in article 683 of the Code of Civil Procedure in addition to the powers conferred through this Decree. The legitimacy of the consignees or depositaries shall be established through a copy of the resolution issued by the National Narcotic Drugs Directorate.

The persons referred to in this article shall exercise the functions of depositaries of the assets placed in their custody during the corresponding criminal proceedings.

Article 4. The provisional consignees or depositaries of securities, titles, shares, cash, deposits and foreign currency shall have the following administrative powers over them in addition to those conferred on them by virtue of article 683 of the Code of Civil Procedure and related laws:

(a) They may arrange bank drafts or transfers within the country or with other countries in order to deposit cash in the Bank of the Republic. Foreign currency shall be converted into the national currency for this purpose.

(b) They shall arrange for the Bank of the Republic to invest the cash referred to in the previous paragraph in government bonds or securities of institutions under public law.

(c) In order to obtain the necessary liquidity for the securities, cash, shares, deposits and foreign currency, the persons or entities provisionally designated as consignees or depositaries shall be entitled to cash the titles, for which purpose they may, in order to assert claims against any persons involved in the transaction, fill the areas left blank by the signatories of the documents.

(d) Added by article 1 of Decree No. 1273 of 1990 as follows:

They may sign trustee agreements to make resources derived from foreign currency previously converted into national currency available for the purposes set forth in the agreements in question.

Article 6. Article 4 of Legislative Decree No. 2390<sup>4</sup> of 1989 shall read as follows:

Third parties alleging ownership of the seized or confiscated property and requesting its restitution shall appear in person, accompanied by legal counsel if they deem it appropriate, before the judge trying the case concerned, within five (5) calendar days of being served with a summons or writ, in order that they may assert ownership of the property, its legitimate origin and the purpose for which it was intended.

When passing judgement in proceedings concerning drug-trafficking or related offences, offences involving unlawful enrichment or the offence defined in article 6 of Legislative Decree No. 1856<sup>5</sup> of 1989, the judge shall decide upon the ultimate destination of such property. If the lawful nature of the origin and intended purpose of the property is wholly proven, the judicial officer trying the case shall order its restitution, which shall be reviewed by the court of higher authority.

**ARTICLE 3. The following provisions of Legislative Decree No. 494 of 1990 shall be adopted as permanent legislation:**

Article 1. The National Narcotic Drugs Council shall operate in accordance with the provisions of the present Decree and those of Law No. 30<sup>6</sup> of 1986 that are not incompatible with it.

Article 2. The National Narcotic Drugs Directorate is hereby set up as a special administrative unit attached to the Ministry of Justice to ensure the efficient implementation of decisions of the National Narcotic Drugs Council.

Article 3. The fundamental aim of the National Narcotic Drugs Directorate shall be to determine and carry out the administrative procedures required for the following purposes:

1. To coordinate and implement government policies regarding the control, prevention and suppression of narcotic drugs.
2. To compile and maintain an up-to-date inventory of assets seized or confiscated on account of their direct or indirect connection with drug-trafficking and related offences.
3. To dispose suitably of assets seized or confiscated on account of their direct or indirect connection with drug-trafficking and related offences, unlawful enrichment or the offence defined in article 6 of Decree No. 1856 of 1989, or assets resulting from its commission.

*Note:* There is no paragraph 4 in the Official Gazette.

5. To monitor the use of the assets by the provisional consignees or depositaries.

6. To collaborate with the judicial authorities in carrying out orders restituting or determining the final destination of the assets.

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<sup>4</sup> *Note by the Secretariat:* E/NL.1992/7.

<sup>5</sup> *Note by the Secretariat:* E/NL.1992/3.

<sup>6</sup> *Note by the Secretariat:* E/NL.1986/12.



7. To participate in the defence of national interests, through powers granted by the Minister of Justice, in cases calling for the confiscation of assets to provide compensation for damages, without prejudice to the constitutional and legal powers of the office of the public prosecutor.

8. To coordinate the work of the Technical Advisory Committee and the sectional narcotic drugs councils mentioned in articles 95 and 98 of Law No. 30 of 1986, for which purpose it may, by decision of the national director, establish sectional secretariats in sectional councils where the volume or complexity of the matters under consideration so require.

Article 4. To carry out the tasks indicated in the previous article, the National Narcotic Drugs Directorate shall have a national director, secretary-general and the administrative structure described in this Decree.

Article 5. The national narcotics director shall be an agent of the President of the Republic, to be appointed and removed at the latter's discretion, and shall receive the same remuneration as a minister.

Article 6. The national narcotics director shall have the following functions:

1. Define and direct administrative measures of the National Narcotic Drugs Directorate.

2. Take part, with the right to speak but not to vote, in meetings of the National Narcotic Drugs Council.

3. Direct and coordinate measures in fulfilment of the decisions of the National Narcotic Drugs Council.

4. Determine the activities required to fulfil the functions of the National Narcotic Drugs Directorate.

5. Represent the State or ensure that it is represented in legal actions instigated against it and to defend its interests in administrative proceedings bringing claims for compensation for damages arising from seizure or confiscation of assets referred to in Decree Nos. 1856 and 2390 of 1989 and Decree No. 42 of 1990.

6. Plan action in response to objections to enactments by the National Narcotic Drugs Council, on the lines determined by the Council.

As legal representative of the Revolving Fund for Prevention, Law Enforcement and Rehabilitation of the National Narcotic Drugs Council, the national narcotics director shall have the following functions:

1. Direct the legal representation of the Revolving Fund for Prevention, Law Enforcement and Rehabilitation of the National Narcotic Drugs Council set up by article 97 of Law No. 30 of 1986.

2. Oversee the drafting and implement the budget of the Revolving Fund for Prevention, Law Enforcement and Rehabilitation of the National Narcotic Drugs Council.

3. Promulgate the enactments and sign the agreements required in fulfilment of the functions assigned to the Revolving Fund for Prevention, Law Enforcement and Rehabilitation of the National Narcotic Drugs Council.

4. Collect and manage the fines or cash obtained through application of the National Narcotic Drugs Statute.
5. Manage the movable and immovable assets contained in the Fund.
6. Finance the printing and distribution of publications required to communicate the policies and programmes of the National Narcotic Drugs Council.
7. Obtain communications equipment, means of transport and other items required to carry out the activities for preventing and monitoring the production of, trade in and use of addictive drugs.
8. Finance programmes and campaigns proposed by the Government to prevent drug dependence in cooperation with the Ministries of Health, Education, Communications and Justice.
9. Promulgate the regulations required to ensure that the Fund operates correctly in accordance with the legal and regulatory provisions, subject to prior authorization by the National Narcotic Drugs Council.
10. Empower agents to legally represent the Fund.
11. Draft the annual budget of the entity, together with additions to and transfers from it, and present it for approval to the National Narcotic Drugs Council, ensure that it is properly implemented and allocate the expenses incurred by the entity.
12. Provide the President of the Republic, the Minister of Justice and the National Narcotic Drugs Council with any general or periodic reports that may be requested.

Article 7. The National Narcotic Drugs Directorate of the Ministry of Justice shall have a secretary-general who shall coordinate, on the basis of instructions given to him by the national director, the activities of the directorate and shall countersign the enactments promulgated by the national director.

Article 8. The National Narcotic Drugs Directorate shall have the following structure:

1. National director
  - 1.1 Planning office
  - 1.2 Narcotic drugs office
2. Secretary-general
3. Deputy director for asset management
4. Legal department
5. Coordination department
6. Internal operations department

Article 9. The planning office shall have the following functions:

1. Prepare the necessary studies, in cooperation with the competent public authorities, developing crop substitution programmes.

2. Prepare the necessary studies, in cooperation with the competent public authorities, for developing drug addiction prevention programmes, for which purpose, it shall assist and advise the Technical Prevention Committee.

3. Propose decisions to be taken to implement the agreements made in international conventions and treaties aimed at controlling the production, trade in and use of addictive drugs.

4. Prepare all studies entrusted to it by the National Narcotic Drugs Council and the national director in the performance of his duties.

Article 10. While this Decree remains in force, the Narcotic Drugs Office of the Ministry of Justice shall be reassigned to the National Narcotic Drugs Directorate. Under the direction and guidance of the national narcotics director, it shall perform the functions assigned to it under the organic laws of the Ministry of Justice and those provided for in article 93 of Law No. 30 of 1986.

Article 11. The asset management department shall have the following functions:

1. Draft circulars, in cooperation with the Legal Department, setting out the instructions by the national director on the proper procedure for drawing up seizure and confiscation orders.

2. Following the decision by the National Narcotic Drugs Directorate as to the provisional destination of seized or confiscated assets or their deposit, coordinate the transfer of the assets with security services and the entity or person to which they are consigned, providing the appropriate operating instructions and monitoring their implementation.

3. On the basis of the judicial decision made, propose measures to ensure that the assets are duly consigned to their final destination or else returned.

Article 12. The legal department shall have the following functions:

1. Prepare opinions and studies required by the national director, and other offices of the National Directorate and the National Narcotic Drugs Council for the performance of their functions.

2. Collaborate with the Rodrigo Lara Bonilla Law School and the Higher Council of the Justice Administration in training officials and employees in the judiciary in the correct interpretation and application of current legislation designed to suppress illicit drug trafficking.

3. Promote the interests of the State, either directly or through legal counsel contracted for that purpose and in accordance with article 3, paragraph 7, of this Decree, in administrative proceedings bringing claims for compensation for damages arising from seizure or confiscation of assets under Law No. 30 of 1986 and Legislative Decree Nos. 1856 and 2390 of 1999.

4. Provide the legal justification for the decisions to be adopted by the National Narcotic Drugs Council and the national narcotics director.

Article 13. The coordination department shall have the following functions:

1. Record and maintain up-to-date inventories of assets seized or confiscated on account of their direct or indirect connection with drug-trafficking and related offences.
2. After assets have been seized or confiscated as provided for in articles 9, 23, 24 and 53 of Decree No. 2790 of 1990, in accordance with article 1 of Decree No. 099 of 1991, coordinate with the armed forces, national police and State security services activities for guarding and delivering the assets to the provisional consignee designated by the National Narcotic Drugs Directorate.
3. Provide instructions to the bodies to which seized or confiscated assets have been provisionally consigned or to the depositaries of those assets.
4. Coordinate with the Bank of the Republic and the Security Fund of the Judiciary the deposit or investment of the equivalent amount in national currency of foreign currency, gold or other securities such as bonds, shares, promissory notes and the like confiscated in accordance with the provisions of Legislative Decrees Nos. 1856 of 1989 and 042 of 1990.
5. Maintain permanent contact with the judicial authorities involved in criminal proceedings concerning seized or confiscated assets and provide them with assistance within their powers in carrying out orders in connection with the situation of these assets.
6. Carry out the activities required for the efficient functioning of the sectional narcotics councils and provide the necessary coordination to ensure that their activities are compatible with the policies established by the National Narcotic Drugs Council; in addition, ensure that the sectional secretaries of the National Narcotic Drugs Directorate carry out the instructions issued by the national director.
7. Foster and coordinate the work of the Technical Advisory Committee on National Drug-Dependence Prevention.
8. Advise and coordinate with the Exchange Control Supervisory Board regarding actions to be carried out by the latter in the event of violations of exchange control regulations.

Article 14. The internal operational department shall have the following functions:

1. Draft the budget of the National Narcotic Drugs Council Revolving Fund for Prevention, Law Enforcement and Rehabilitation and the draft costs agreements in accordance with the relevant regulations.
2. Carry out the accounting and draw up the Fund's financial statements.
3. Carry out cost centre allocations and other budget activities and draw up the contracts required for the Fund and National Narcotic Drugs Directorate to operate.
4. Provide the necessary assistance with regard to systems and information technology to all units of the National Narcotic Drugs Directorate to enable them to carry out their tasks.

5. Manage the personnel administration of the National Narcotic Drugs Directorate.

6. Take responsibility for the Directorate's procurement programme and provide administrative support required by its various departments.

7. Act as treasurer for the Fund.

8. Conduct studies on the various activities to be carried out by the Fund to obtain new financial resources.

9. Provide periodic financial status and budget reports required by the Office of the Controller-General of the Republic, the Ministry of Finance and Public Credit and other requesting bodies.

10. Collect and manage the resources of the Revolving Fund in accordance with the legislation in force.

Article 15. The tasks of the secretary-general, office manager and deputy director shall be determined by the national director and salaries of the two latter officers shall be the equivalent of those defined by law for the director general of a ministry.

The other work required by the National Narcotic Drugs Directorate, provided that it does not involve the management of public resources, may be carried out by persons under service contract.

Article 16. The costs of investment and operation resulting from the conduct of tasks assigned to the National Narcotic Drugs Directorate shall be covered by the budget of the National Narcotic Drugs Council Revolving Fund for Prevention, Law Enforcement and Rehabilitation created by article 97 of Law No. 30 of 1986.

*[Translator's note: Article 17 is missing in original text.]*

Article 18. The resolutions passed by the National Narcotic Drugs Council and the decisions adopted by the national narcotics director shall be mandatory. Any public official who fails to carry out or unjustifiably delays carrying out these orders and resolutions shall be guilty of misconduct, punishable by dismissal, which shall be effected by the competent authority after the relevant procedure has been carried out.

Article 19. The National Narcotic Drugs Council Revolving Fund for Prevention, Law Enforcement and Rehabilitation created by article 97 of Law No. 30 of 1986 is a national public body with legal personality, its own assets and administrative autonomy, attached to the National Narcotic Drugs Directorate of the Ministry of Justice and governed by the regulations in this Decree.

Article 20. The National Narcotic Drugs Council Revolving Fund for Prevention, Law Enforcement and Rehabilitation shall be responsible for financing the implementation of the policies of the National Narcotic Drugs Council, prevention, control and care programmes related to drug dependency and pharmacological monitoring, inter alia, and the operation of the National Narcotic Drugs Directorate.

Article 21. Amended by article 17, paragraph 2.

Article 22. The assets of the Revolving Fund for Prevention, Law Enforcement and Rehabilitation shall consist of:

1. The resources assigned to it specifically within the national budget.
2. The proceeds of the fines provided for in the National Narcotics Statute.
3. The assets and items acquired through the operation of the National Narcotic Drugs Directorate.
4. Revenue accruing from its assets and the return on investment of its funds.
5. The fees for the issuance of the certificates by the National Narcotic Drugs Directorate in accordance with article 93 (f) of Law No. 30 of 1986.
6. Assets acquired in any way as a legal person.

Article 23. The contracts concluded by the Revolving Fund shall be governed by the regulations applicable to contracts between individuals and shall be subject solely to entry in the budgetary register, the provision and approval of guarantees, and publication in the Official Gazette.

Article 24. The administrative documents issued in implementation of the functions of the Revolving Fund shall be subject to the government procedure set forth in the Code of Administrative Court Regulations.

Article 25. The investments and income from the Fund's resources shall not be subject to the mandatory investment regulations contained in the relevant legislation.

**ARTICLE 4. The following provisions of Decree No. 1146 of 1990 shall be adopted as permanent legislation:**

Article 1. The transport, transit, arrival, entry into the national territory or storage of the following goods or products shall be subject to the provisions of this Decree, without prejudice to other legislation in force in this matter: acetone (2-propanone; dimethylketone), hydrochloric acid, ethyl ether (sulphuric ether, ethyl oxide, diethyl ether), chloroform (trichloromethane), sulphuric acid, ammonia (ammonium hydroxide), potassium permanganate, sodium carbonates, methyl-ethyl-ketone (2-butanone, MEK), aliphatic solvent No. 1, aliphatic solvent No. 2, thinner, ethyl acetate, methanol or butyl alcohol (1-butanol; butyl alcohol, propyl carbinol), and butanol.

Paragraph. Also subject to this Decree shall be any other substances, as determined by resolution of the National Narcotic Drugs Council which may be used for the processing, manufacture or transformation of narcotic drugs or drugs producing physical or psychological dependence.

Article 2. Amended by article 1 of Decree No. 1813 of 1990 as follows:

With effect from the entry into force of this Decree, the entry into free trade zones of the goods and products described in article 1 of this Decree shall be prohibited.

The entry into the free trade zones of goods and products loaded and transported in bulk and with an import permit previously granted by the relevant

authorities shall be exempt from the prohibition in article 1 above. This exemption shall apply only if the substances referred to in article 1 are unloaded from the tanker vessels into land-based tanks and provided that the latter are duly used for the purpose described below. The operator of the land-based tanks shall also be obliged to make relevant notifications to the anti-drug police within 48 hours of the arrival of each cargo at the free zone.

The entry of the goods listed in article 1 may be effected only through the customs offices of Barranquilla, Bogotá, Buenaventura, Cartagena and Cúcuta and through the free trade zones in the cities of Barranquilla, Buenaventura and Cartagena.

Paragraph. Exempted are only those products, which at the date of publication of this Decree have the relevant permit for entry into a free zone and provided that they have been loaded, with bill of lading, air waybill or other similar international transport document, issued by a public carrier, at a date concurrent with or prior to the entry into force of this Decree, which may, consequently, enter the customs area of destination or the corresponding free zone.

Article 7. The Directorate-General for Customs and the national police, through its port, airport and anti-drug departments, may carry out visits and inspections at maritime terminals, airports, free zones, private or public docks, general warehouses or any other depository or store which is under the control of the Directorate-General for Customs, in order to take samples for laboratory tests on the stored goods, from any class of chemical products or substances similar to those described in article 1, so as to establish whether or not such goods are regulated by this Decree.

The national police, in order to carry out the visits and inspections at depositories and stores under the control of the Directorate-General for Customs, shall coordinate such activities with the customs administrator concerned.

Article 8. The goods described in article 1 of the present Decree may only be unloaded, in the case of carriage by sea, in the COLPUERTOS terminal ports or exceptionally in private docks that have a special permit for the purpose, located within the jurisdiction of the customs indicated in article 2, which must be requested within sixty (60) days of the entry into force of the present Decree from the Directorate-General for Shipping and Ports, which shall grant such a permit if the requirements and procedures set out in paragraphs 1 and 2 of the present article are fulfilled. The foregoing is without prejudice to the existing permit to handle foreign and export goods, for the granting of which the Directorate-General for Customs is the competent authority.

Paragraph 1. To enable the Directorate-General for Shipping and Ports to issue the special permit to which this article refers to a person acting as an operator of a private dock or any other port installation, other than COLPUERTOS, in which the products described in article 1 of the present Decree are received or unloaded, the interested party must submit an application in person to the Director-General for Shipping and Ports containing:

1. Name, domicile and identification of the natural or legal person making the application.

2. In the case of a legal person, the name, domicile and nationality of all its shareholders, legal representatives and directors.

3. A certificate from the National Narcotic Drugs Directorate testifying that it has no information on the interested natural person or all the legal representatives, principals and agents, persons with capacity to represent the company, principal and alternate members of the board of directors and any shareholder who controls or owns more than twenty per cent (20%) of the share capital. The same requirement shall apply to legal persons which are shareholders of the legal applicant. Aliens shall submit a certificate from the police of the country of origin or residence testifying to their good conduct or lack of criminal record.

4. Description of the type of products expected to be received, frequency and quarterly quantities, showing suppliers, country of origin and names and addresses of persons or consignees at the final destination for the last six (6) months.

5. The exact location of storage sites where the goods will be kept, and in the event of direct discharge from ships to tanks, a certificate from a company qualified in the inspection and calibration of measuring equipment stating that it has recently inspected and checked the manometers or measuring equipment needed to establish the exact quantity of product received and delivered, and that they have seals or devices preventing them being altered.

6. The permit for the storage of foreign goods issued by the Directorate-General for Customs.

Paragraph 2. On receipt of the application and after the requirements set out in paragraph 1 above have been fulfilled, the Directorate-General for Shipping and Ports shall order an inspection to be carried out in person by the harbourmaster, accompanied by experts, to verify the information submitted and the conditions of security and control for the storage, loading, unloading and delivery of the products to be shipped through the private dock.

In addition, the dock operator shall be required to maintain a special stock control ledger with a complete record of the movement of these goods, showing: type and trade mark of the product received; quantity received; date of arrival; number and date of shipment advice; name of consignee; his tax identity number (NIT) and address; number and date of manifest; number of import declaration; quantity delivered to consignee; name of land carrier and identification of the vehicle used.

Article 9. The dock operator with a special permit to receive the goods described in article 1 must satisfy himself that the consignee or addressee of the products concerned has obtained a prior permit from and is registered with the National Narcotic Drugs Directorate.

In accordance with the provisions of paragraph 2 of article 7, the harbourmaster, national anti-drug or port police and the national customs are authorized to carry out visits and inspections at the installations of operators of such private terminals or port installations so as to take samples of products and soundings of tanks and for making physical inventories, as well as inspecting ledgers. In the event of discovery of any irregularity, a report shall be submitted to the Directorate-General for Shipping and Ports for continuation of the investigation



into contravention of the merchant shipping regulations, which may result in the application of the sanctions contained in article 16 of this Decree. In the event of recurrence, the operating permit for such a dock shall be suspended for an effective period of not less than three (3) months. In the event of a second recurrence, the permit and the concession to which it relates shall be definitively cancelled. All the foregoing is without prejudice to any criminal proceedings to which it might give rise.

Article 10. Amended by article 3 of Decree No. 1813 of 1990 as follows:

With effect from the entry into force of this Decree, the goods described in article 1 may not be requested for clearance on the basis of an advance declaration to which article 156 of Decree No. 2666 of 1989 refers, nor be the subject of urgent formalities, nor shall they be unloaded with an immediate destination in the secondary customs zone, nor shall COLPUERTOS permit their direct unloading, except for the direct discharge of bulk liquid products from the ship to land-based tanks.

Article 11. The captain of any ship, whether of Colombian or foreign registration, intending to sail through Colombian territorial waters, even in innocent passage, when carrying on board the substances described in article 1 of this Decree must give prior notice by radio or any other means of communication, or through his shipping agent in Colombia, if any, to the Colombian Navy\* or the nearest harbourmaster that he is carrying such goods and indicating, if it is an innocent passage, his route or alternatively the port in the Republic where he intends to dock.

Article 12. When the goods on board the ship are destined for a Colombian port, the notice to which the foregoing article refers shall be given to the relevant port authority and headquarters of the port police at the port of destination, at least 24 hours before the estimated time of arrival or docking in the first Colombian port, with details of the type of goods concerned, quantity, importer, trade marks, manufacturer, country of origin and itinerary of ports where the ship will dock prior to the unloading of such products.

Paragraph. The foregoing obligation shall be met without prejudice to the declaration of such goods in the manifest or freight list, which must be carried and delivered in all cases for customs purposes.

Article 13. Craft of the National Ministry of Defence and the Directorate-General for Customs, which carry clear and identifiable insignia as craft in government service, shall have the right to visit all vessels flying the Colombian flag or those of any other State sailing in exercise of the right of innocent passage through territorial waters, i.e. within twelve (12) nautical miles measured from the nearest points of the straight base lines in force, in particular when it is suspected that they are in contravention of the provisions of this Decree.

In such cases, if in the judgement of the authority carrying out the visit the regulations under this Decree have been infringed, the ship must be ordered to sail to a Colombian port where the relevant official investigation will be pursued by the Colombian maritime authority.

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\* *Translator's note:* The previous translation of Decree No. 1146 gives the term "National fleet".

Vessels and aircraft of the Ministry of National Defence may, in accordance with international conventions in force, exercise the right of pursuit of such vessels or aircraft and also those for which there are grounds for believing that offences against Colombian laws and regulations have been committed, in particular those stipulated in this Decree.

Article 14. The customs official responsible for receiving the ship or aircraft must always verify whether the freight list or manifest includes any goods described in article 1 of this Decree, and if such be the case must immediately inform the local port or airport police and the chief of customs.

Article 15. The customs authorities must always carry out a physical inspection of the goods described in article 1 and shall permit the presence of a member of the relevant port police who shall check the documentation submitted, the quantities loaded and details of the addressee. In case of doubt concerning the nature of the goods, the police officer may take samples, recording that fact in the respective report.

Article 16. The contravention by ship-owners, ships' captains and maritime carriers or their agents of the provisions of articles 11 to 13 of the present Decree shall be considered a contravention of the rules of maritime operations and the merchant marine and, in consequence, the Directorate-General for Shipping and Ports shall be empowered to investigate and sanction such acts or omissions, and shall apply the fines set out in article 80 of Decree No. 2324 of 1984.

The foregoing is without prejudice to the seizure of goods described in article 1 of this Decree.

Paragraph. (A) Captains, officers and crews and ships, vessels or naval craft involved in investigations into contravention of this Decree shall be subject to the provisions of article 72\* and its paragraph of Decree No. 2324 of 1984, but the maximum fine which may be imposed shall be four thousand (4,000) times the minimum monthly salary.

Article 18. The discovery by the competent authority of marijuana, cocaine, morphine, heroin or any other substance which produces physical or psychological dependence in a ship or aircraft in public service in connection with or as a direct result of information or requests by the commander or captain, its owner, charterer or operator, shipping agent or responsible employee of the public air or sea transport company concerned shall not give rise to seizure of the ship or aircraft, nor the application of any surety, so that the public transport vehicle may still pursue its operations and itineraries, without hindrance from such cause.

This regime shall apply only to ships or aircraft in public service, in the course of operating routes or itineraries, or in providing services duly authorized by the Directorate-General for Shipping and Ports or by the Administration Department of Civil Aeronautics, as appropriate,

Article 19. Public service air or sea carriers shall have a preferential right to receive as deposit or other title not involving transfer of ownership, the ship or aircraft, whether owned, leased or chartered, which is in legitimate operation in public traffic or service to or from Colombia on authorized itineraries or routes, if it

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\* *Translator's note:* The original wrongly states "article 772".

is involved through such use in the offence of drug-trafficking and related offences or those described in Legislative Decrees No. 1856 and No. 1895 of 1989.

Paragraph. In the event of seizure of ships or aircraft in public air or sea service coming under this article, the personal presentation to which article 6 of Decree No. 42 of 3 January 1990 refers shall be undertaken by the captain or agent of the ship or aircraft so as to apply to the judge handling the case for restitution of the ship or aircraft.

Article 23. In order not to impede the international transport of public merchandise and to avoid prejudice to third parties, the relevant customs administrator, subject to prior written approval by the chief of the local anti-drug police, or his officer-in-charge, may authorize the public air or sea carriers herein concerned to trans-ship or unload the remaining goods not directly involved in the offence under investigation. Such trans-shipment or unloading may in all cases be ordered to take place under the supervision of the police and legal authorities.

Article 29. The National Narcotic Drugs Council shall be empowered, by resolution and whenever it deems necessary, to prohibit or restrict the storage, keeping or transport of the products described in article 1 of this Decree in certain sectors of the national territory, other than those places authorized under the provisions of this Decree and in a quantity in excess of that determined by the Council itself. The same Council is also empowered to define the zones of prohibition or restriction following the political divisions laid down by law or by geographical coordinates or any other method deemed appropriate. Contravention of the aforementioned restrictions established by the Council shall give rise to the seizure of such products.

Article 30. Governors must within thirty (30) days following the entry into force of this Decree inform the Directorate-General for Shipping and Ports, with a copy to the Directorate-General for Customs, concerning the ports, docks or port or river installations, in the latter case those on rivers which are international boundaries, and those listed in article 2 of Decree No. 2324 of 1984, whether authorized or not, with valid permits or otherwise, under their jurisdiction.

Article 31. The report of the governors shall contain the following:

1. Location, boundaries (if possible), approximate area of the site and existing buildings.
2. General description.
3. Name of the port installation, if any.
4. Name of the owner, operator or concessionaire.
5. Object of use and justification or public benefit in maintaining its operation or functioning or if, on the contrary, it is advisable to close it.

Article 32. Amended by article 4 of Decree No. 1813 of 1990 as follows:

The Directorate-General for Shipping and Ports, with the intervention of the harbourmaster's office in whose jurisdiction the ports, docks or port installations are located, shall suspend the permits issued or prohibit their functioning or operation in the event of any of the following circumstances:

1. When they do not have permits, concessions and authorizations in due form, which must be issued by the Directorate-General for Shipping and Ports.

2. When, despite recommendations that it is appropriate to continue its functioning and operation, the Directorate-General for Shipping and Ports, after hearing the interested parties and the recommendation of the Director-General of the National Police and the National Narcotic Drugs Directorate, considers together with the latter that it would be appropriate to prohibit its operation or functioning.

3. When they do not have the relevant authorization from the customs authorities, in particular the authorization for international trade, when applicable.

Paragraph. Governors shall not have to report on the COLPUERTOS ports and terminals, which are exempted in accordance with articles 30 and 31 of Decree No. 1146 of 1990.

**ARTICLE 5. The following provisions of Decree No. 1813 of 1990 shall be adopted as permanent legislation:**

Article 2. In order to obtain authorization to receive and store goods mentioned in article 1 of Decree No. 1146 of 1990, the owners, users and operators of land-based tanks in free trade zones must, in addition to the relevant legal approvals or authorizations, obtain the express authorization of the National Narcotic Drugs Directorate, which may grant such permission provided that the following information is provided to its satisfaction:

- (a) Name and domicile of the interested party.
- (b) Verification that it has the free trade zone and customs permits required to carry out the operation in question.
- (c) In the case of a legal person, the name, domicile and nationality of its shareholders, legal representatives and directors.
- (d) A certificate from the National Narcotic Drugs Directorate testifying that it has no information on the interested natural person or all the principal and alternate legal representatives, persons with capacity to represent the company, or principal and alternate members of the board of directors. Aliens must submit a certificate from the police of the country of origin or residence testifying to their good conduct or lack of criminal record.
- (e) Description of the type of products expected to be received, frequency and quarterly quantities, showing suppliers, country of origin and names and addresses of the final addressees or consignees at the final destination for the previous six (6) months.
- (f) The exact location of storage sites where the goods will be kept and a certificate from a company qualified in the inspection and calibration of measuring equipment stating that it has recently inspected and checked the manometers or measuring equipment needed to establish the exact quantity of product received or delivered, and that they have seals or devices preventing them being altered.
- (g) The permit for the storage of foreign goods issued by the Directorate-General for Customs.

To obtain a permit, such persons must comply with article 8, paragraph 2, and article 9 of Decree No. 1146 of 1990 and other applicable regulations.

**ARTICLE 6. The following provisions of Decree No. 2187 of 1990 shall be adopted as permanent legislation:**

Article 1. Public order judges appointed to cases in which aircraft or movables of foreign origin have been or are seized and are liable to confiscation by the Directorate-General for Customs, or in which gold, platinum, foreign currency or titles thereto have been or are seized and may be used in investigations by the Foreign Exchange Control Board shall send without delay a copy of the seizure warrant and evidence of potential use to the administrative authorities, as follows:

(a) In the case of aircraft or movables of foreign origin liable to confiscation, to the relevant customs authority.

(b) In the case of gold, platinum, foreign currency or titles thereto, to the Foreign Exchange Control Board.

Article 2. The administrative authorities referred to in article 1 shall give preferential treatment to cases involving administrative or minor offences within their competence relating to affairs covered by this Decree. Accordingly, the final decision shall be made within four months from the date on which the copy of the seizure warrant was received.

Article 3. The confiscation of aircraft or assets decreed by the Directorate-General for Customs shall be effective once the corresponding decision has become final. To this effect, the competent customs authority shall transmit its decision to the judge, who shall immediately order the handing over of the aircraft or assets concerned to the Revolving Fund of the Customs Authority.

The Revolving Fund of the Customs Authority may sell or auction the confiscated goods in Colombia or another country.

Article 4. Aircraft or assets that are not confiscated by an administrative procedure shall remain at the disposal of the court to whose orders they are subject for such purposes as it may have competence.

Article 5. The fines imposed by the Foreign Exchange Control Board shall be effective once the corresponding decision regarding violation of the foreign exchange regime has become final. To this effect, the superintendent shall transmit its decision to the judge, who shall immediately order the Bank of the Republic to deduct the value of the fine from the equivalent in legal Colombian tender of the confiscated gold, platinum, foreign currency or titles thereto, this amount being made available to the General Treasury of the Republic without the need for tax evasion proceedings against the offenders.

The remainder, if any, shall be subject to the orders of the court for such purposes as it may have competence.

Article 7. For the purposes of this Decree, the officials authorized by the Director-General for Customs and the foreign exchange control superintendent shall have access to the case records and may take part in all procedures connected with the confiscation of proceeds from cases under this Decree and the judges shall be obliged to provide copies of relevant case records for the purposes of investigation

into administrative or minor offences within the competence of the authorities in question.

Paragraph. The authorized person must be a qualified lawyer and shall be obliged to treat the criminal proceedings in confidence.

Article 8. If the judge orders the return of the assets referred to in this Decree while the administrative decision is pending, they shall be placed by the judge at the disposal of the Directorate-General for Customs or the Foreign Exchange Control Board, as the case may be, in which case the competent officials shall determine the measures to be taken with respect to the assets.

**ARTICLE 7. The following provisions of Decree No. 2894 of 1990 shall be adopted as permanent legislation:**

Article 1. The National Narcotic Drugs Directorate is charged with the coordination, guidance and implementation of the decisions of the National Narcotic Drugs Council. As such, it will continue to fulfil the functions ascribed in article 93 of Law No. 30 of 1986 and article 10 of Decree No. 494 of 1990, to the Narcotic Drugs Office of the Ministry of Justice.

Article 2. For the issue of certificates testifying to no known drug trafficking, the interested party, whether a natural or legal person, national or foreign, shall make a written application, accompanied by the documents required in each case in the relevant legislation.

The application shall be submitted in person by the interested party, by his legal representative or through a duly constituted power of attorney to the National Narcotic Drugs Directorate.

Article 3. (Amended by article 89 of Special Decree No. 2150 of 1995). **Request for information from other bodies.** On receipt of the duly completed applications, the National Narcotic Drugs Directorate shall simultaneously request the competent authorities to provide substantiated information from the records contained in the files in their possession on the complicity of the applicants in activities connected with drug-trafficking and related offences, illicit acquisition of wealth or other offences described in article 6 of Decree No. 1856 of 1989 and to carry out an inspection to monitor chemical substances used to process narcotic drugs, as specified by the National Narcotic Drugs Council.

The competent authorities shall have a period of fifteen days to send in the requested information in writing. Non-compliance shall be regarded as an extremely serious offence.

Article 4. The request to the competent authorities for information made by the National Narcotic Drugs Directorate in implementation of the present Decree shall be accorded priority and treated as urgent.

Article 5. Within eight days following the provision of the respective replies or the lapse of the time-limit provided for in article 3, the National Narcotic Drugs Directorate, on the basis of the information in its possession, or allegations made to it and reports on the background and reputation of the applicant, shall issue, when appropriate, the "certificate testifying to no known drug trafficking".

Article 6. The certificate issued shall be valid for the following periods:

Certificates granted to legal persons which have been constituted for more than ten years may be issued for up to three years.

Certificates granted to other interested persons shall be valid for up to one year.

Notwithstanding, the certificate may be cancelled unilaterally at any time by the National Narcotic Drugs Directorate, on the basis of information received from State investigatory agencies. Such cancellation shall be communicated to the competent authorities and there is no recourse against such cancellation.

Article 7. The National Narcotic Drugs Directorate, in the case of refusal to issue the certificate to which this Decree refers, shall inform the applicant of its reasons in order to enable him to clarify his legal position with the competent authorities.

Article 8. Application for the certificate may be made at any time without the need to show the completion of any specific operation or transaction, but in no circumstance will it be transferable or transmissible, nor can it be added on any grounds.

**ARTICLE 8. The following provisions of article 101 of Decree No. 2790 of 1990, amended by article 1 of Decree No. 099 of 1991, shall be adopted as permanent legislation:**

Article 101\*. Judicial officers who, when this Decree is pronounced, have in their possession documents relating to the seizure or confiscation of assets that are not connected with criminal proceedings, shall decide whether to open an investigation or issue a restraining order based on the background information in the seizure or confiscation warrant and other evidence that might have been collected.

If a restraining order is issued, the judicial officer shall communicate it, once it is enforceable, to the national narcotics director, from which time the assets shall be at his disposal for consignment to the Directorate-General for Customs or the Foreign Exchange Control Board in the cases referred to in Decree No. 2107 of 1990, for transfer to the person entitled to receive them in accordance with the procedure indicated by the National Narcotic Drugs Council, or for the purposes of article 57 of this Decree.

**ARTICLE 9. This Decree shall enter into force on the date on which it is published and shall supersede any provisions to the contrary.**

**RESOLUTION NO. 007 OF 1 DECEMBER 1992**

**Adding toluene and acetic anhydride to the list of substances governed by the regulation contained in Resolution No. 009<sup>1</sup> of 1987 issued by the National Narcotic Drugs Council and Decree No. 1146<sup>2</sup> of 1990, adopted as permanent legislation by article 4 of Decree No. 2272<sup>3</sup> of 1991**

**THE NATIONAL NARCOTIC DRUGS COUNCIL**

In exercise of the powers conferred on it by the paragraph of article 1 of Decree No. 1146 of 1990, adopted as permanent legislation by article 4 of Decree No. 2272 of 1991, and

**WHEREAS:**

(a) In chemical studies carried out on processes for production of cocaine hydrochloride and opiate narcotics the use of toluene (also known as toluol or methyl benzene) and acetic anhydride has been detected.

(b) The United Nations Commission on Narcotic Drugs and the Chemical Action Task Force established by the group of seven major industrialized countries recommend the inclusion of toluene (also known as toluol or methyl benzene) and acetic anhydride in the list of controlled substances used in the production of narcotic drugs; and

(c) At its meeting of 18 September 1992 the National Narcotic Drugs Council decided on the need to include toluene (also known as toluol or methyl benzene) and acetic anhydride as controlled substances,

**HEREBY RESOLVES:**

**ARTICLE 1.** Toluene (also known as toluol or methyl benzene) and acetic anhydride shall be added to the list of substances indicated in article 1 of Resolution No. 009 of 1987 of the National Narcotic Drugs Council as substances subject to control.

**ARTICLE 2.** Toluene (also known as toluol or methyl benzene) and acetic anhydride shall be included as substances subject to regulation by Decree No. 1146 of 1990, adopted as permanent legislation by article 4 of Decree No. 2272 of 1991.

**ARTICLE 3.** Any natural or legal person who purchases, imports, distributes, consumes, produces or provides storage services in connection with the substances referred to in articles 1 and 2 of this Resolution shall be required to obtain or fill out the certificate attesting to the absence of drug-trafficking reports issued by the National Narcotic Drugs Directorate and to register with the Ministry of Health within six (6) months of the entry into force of the present Resolution.

**ARTICLE 4.** A certificate attesting to the absence of drug-trafficking reports and registration with the Ministry of Health are mandatory for the purchase, import, distribution, consumption, production and storage of any amount of acetic

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<sup>1</sup> Note by the Secretariat: E/NL.1987/71.

<sup>2</sup> Note by the Secretariat: E/NL.1991/37.

<sup>3</sup> Note by the Secretariat: E/NL.2003/06.



anhydride. For toluene (also known as toluol or methyl benzene), certification and registration are required for quantities in excess of five litres a month in the case of liquids or five kilograms a month in the case of solids, as set forth in article 2 of Resolution No. 009 of 1987 of the National Narcotic Drugs Council.

**ARTICLE 5.** This resolution shall enter into force on the date it is published.

Done at Santa Fé de Bogotá D.C., 1 December 1992

## DECREE NO. 2150 OF 5 DECEMBER 1995

## [Extracts]

**Revoking and amending unnecessary regulations, procedures or arrangements in the public administration.****Certificates attesting to the absence of drug-trafficking reports**

[...]

**Article 82. Issue of the certificate.** The certificate attesting to the absence of drug-trafficking reports shall be issued by the National Narcotic Drugs Directorate to the following bodies and exclusively for the purposes specified in this article:

1. Civil Aviation Special Administrative Unit for:
  - (a) Import of aircraft.
  - (b) Acquisition of ownership or change of operator of aircraft, aerodromes, landing strips or heliports.
  - (c) Construction, alteration and operating permit for aerodromes, landing strips or heliports.
  - (d) Obtaining or renewal of permit to operate commercial aviation service companies, flying schools and aero clubs.
  - (e) Obtaining or renewal of permits to operate aeronautical workshops and airport service companies.
  - (f) Approval of new partners or registration of the assignment of capital shares.
  - (g) Granting of permits for aviation personnel.
2. The Department of Maritime Navigation (DIMAR) for:
  - (a) Issue of navigation permits.
  - (b) Acquisition or registration of boats.
  - (c) Use and enjoyment of State-owned public assets.
  - (d) Granting of maritime transport routes and services.
  - (e) Ownership and operation of land-based tanks in free trade zones.
3. For the import, purchase, distribution, consumption, production or storage of chemical substances controlled by the National Narcotic Drugs Council.

Paragraph. Under no circumstances may a certificate attesting to the absence of drug-trafficking reports be sought by and/or issued to public bodies, organizations or departments or bodies applying for them without a specific purpose.

**Article 83. Expiry of validity of certificates.** The certificate shall be valid as follows:

1. Up to five years for certificates granted for chemical substances controlled by the National Narcotic Drugs Council.

2. Certificates granted for procedures relating to the Civil Aviation Special Administrative Unit shall be valid as follows:

(a) Up to five years for the granting of permits for aeronautical personnel.

(b) Up to five years for the granting or renewal of permits to operate aviation and airport service companies, flying schools, aero clubs and aviation workshops, the period of validity being stipulated by the Civil Aviation Special Administrative Unit in its resolution granting the operating permit for the company.

(c) Up to five years for the granting or renewal of permits to operate aerodromes, landing strips or heliports, the period of validity being stipulated by the Civil Aviation Special Administrative Unit in its resolution granting the operating permit for the aerodrome, landing strip or heliport.

(d) Up to five years for the approval of a new owner or operator of an aerodrome, landing strip or heliport, the period of validity being stipulated by the Civil Aviation Special Administrative Unit in its resolution approving the new owner or operator.

(e) Up to one year for all other purposes.

3. Certificates granted for procedures relating to the Department of Maritime Navigation and Ports (DIMAR) shall be valid as follows:

(a) Up to five years for the granting or renewal of a navigation permit, the period of validity being stipulated by the General Maritime Authority in the resolution granting the navigation permit.

(b) Up to five years for the granting of maritime transport routes and services.

(c) Up to five years for the granting of the use and enjoyment of public assets.

(d) Up to five years for the ownership and operation of land-based tanks in free trade zones.

(e) Up to one year for the acquisition and/or registration of boats.

Paragraph 1. Notwithstanding, the certificate may be cancelled unilaterally at any time by the National Narcotic Drugs Directorate on the basis of information from the competent authority or organization. The appropriate authorities shall be notified of the cancellation and appeals for restitution may be made exclusively to those authorities.

Paragraph 2. The certificates attesting to the absence of drug-trafficking reports issued by the National Narcotic Drugs Directorate that are valid when the present Decree enters into force shall be regarded as having been issued for a period of five years from their date of issue.

Paragraph 3. The National Narcotic Drugs Council shall continue to determine the charges for issuance of the certificates referred to in this Decree in accordance with the legislation in force.

**Article 84. Requirements.** Authentications, personal submissions, declarations of [chambers of] industry and commerce, references from supplier companies, professional chemist certificates, certification of commercial registration of legal persons, navigation permits, photocopies of identity documents of the crew for the granting or renewal of permits to operate commercial air service companies and documents calling for special procedures, such as inspections by the National Institute for Geological and Mining Research (Ingeominas) in the case of the handling of controlled chemical substances shall no longer be required for the issuance of certificates attesting to the absence of drug-trafficking reports.

**Article 85. Abolition of approval stamp by the National Narcotic Drugs Directorate on import permits.** The stamp by the National Narcotic Drugs Directorate shall no longer be required for approval of permits for the import of controlled chemical substances. The Colombian Foreign Trade Institute (INCOMEX) shall issue such permits in accordance with the certificate attesting to the absence of drug-trafficking reports and within the approved limits and shall report the import permits that it has approved every month.

**Article 86. Abolition of registration with the Ministry of Health.** Registration with the Ministry of Health of natural or legal persons purchasing, importing, distributing, consuming, producing and storing controlled chemical substances shall no longer be required, without prejudice to the possibility of verification visits by the Ministry when necessary and the obligation to stamp and number the chemical substance control ledger.

**Article 87. Exceptions.** Presentation of the certificate attesting to the absence of drug-trafficking reports shall not be required for public entities, bodies or departments. Such bodies may acquire controlled chemical substances through express written authorization by their legal representative, who may designate an official within the body as having responsibility for such substances.

**Article 88. Renewal of certificate.** For renewal of the certificate attesting to the absence of drug-trafficking reports, private individuals shall only be required to update the data held by the National Narcotic Drugs Directorate.

**Article 89. Request for information from other bodies.** Article 3, paragraphs 1 and 2, of Decree No. 2894<sup>1</sup> of 1990, adopted as permanent legislation by Decree No. 2272<sup>2</sup> of 1991, shall read as follows:

“On receipt of the duly completed applications, the National Narcotic Drugs Directorate shall simultaneously request the competent authorities to provide substantiated information from the records contained in their files in their possession on the complicity of the applicants in activities connected with drug-trafficking and related offences, illicit acquisition of wealth or other offences described in article 6 of Decree No. 1856<sup>3</sup> of 1989 and to carry out an inspection to monitor chemical substances used to process narcotics, as specified by the National Narcotic Drugs Council.

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<sup>1</sup> *Note by the Secretariat:* E/NL.1991/38.

<sup>2</sup> *Note by the Secretariat:* E/NL.2003/06.

<sup>3</sup> *Note by the Secretariat:* E/NL.1992/3.

“The competent authorities shall have a period of fifteen days to send in the requested information in writing. Non-compliance shall be regarded as an extremely serious offence.”