

# **Law No. 8204: Complete Revision of the Law on Narcotics, Psychotropic Substances, Drugs of Unauthorized Use and Related Activities**

The Legislative Assembly of the Republic of Costa Rica hereby decrees that Law No. 7786 of 30 April 1998 on narcotics, psychotropic substances, drugs of unauthorized use and related activities shall be comprehensively revised to read as follows:

## **Part I**

### **General provisions**

#### **Single Chapter**

Article 1. This Law regulates the supplying, prescribing, administering, handling, use and possession of, the prevention of trafficking in and the marketing of narcotics, psychotropic substances, inhalants and other drugs and pharmaceuticals capable of causing physical or psychological dependence included in the United Nations Single Convention on Narcotic Drugs of 30 May 1961, adopted by Costa Rica under Law No. 4544 of 18 March 1970, as amended by the Protocol Amending the Single Convention on Narcotic Drugs, Law No. 5168 of 8 January 1973, in the Vienna Convention on Psychotropic Substances of 21 February 1971, adopted by Costa Rica under Law No. 4990 of 10 June 1972, and in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988 (the 1988 Convention), adopted by Costa Rica under Law No. 7198 of 25 September 1990. It also regulates the schedules of legal narcotics and psychotropic and similar substances drawn up and published in *La Gaceta* by the Ministry of Health and the Ministry of Agriculture and Stockbreeding and governs the regulations which the two Ministries issue in this regard.

In addition, it regulates the monitoring, inspection and control of activities connected with inhalants, drugs or pharmaceuticals and of products, materials and chemicals involved in the preparation or production of such substances, all the foregoing being without prejudice to the relevant stipulations contained in the General Public Health Act, Law No. 5395 of 30 October 1973, and the revised versions thereof; the General Animal Health Act, Law No. 6243 of 2 May 1978, and the revised version thereof; and the law ratifying the loan contract concluded between the Government of Costa Rica and the Inter-American

Development Bank for a stockbreeding and animal health development programme (PROGASA), Law No. 7060 of 25 March 1987.

It further regulates and penalizes financial activities, with a view to preventing the entry of money derived from serious crime and any operations that may serve as a means of laundering such money.

For the purposes of this Law, "serious crime" shall mean conduct constituting an offence punishable by deprivation of liberty for four years, as a minimum, or by a more severe penalty.

It is the function of the State and acknowledged to be in the public interest to adopt the necessary measures to prevent, monitor, investigate, avoid or suppress any unlawful activity relating to the subject-matter of this Law.

Article 2. The trade in and dispensing, industrial processing, manufacture, refining, conversion, extraction, analysis, preparation, cultivation, production, importation, exportation, transport, prescribing, supply, storage, distribution and sale of drugs, substances or products referred to in this Law and of their derivatives and specialities shall be limited strictly to the quantities necessary for medical treatment, for toxicological and chemical analyses, for the training of drug detector animals used by police forces, for pharmacokinetic analyses in the spheres of medicine and sport, for the lawful preparation and production of medicaments and other products of authorized use or for research. Only legally authorized persons may engage in any activity concerned with such substances. It is the duty of authorized professionals to prescribe the narcotics and psychotropic substances used in medical and veterinary practice, and to use the official forms which are provided by the Ministry of Health and the Ministry of Agriculture and Stockbreeding, as appropriate, or those which are sold and checked by the authorized professional bodies. The data entered on such prescriptions shall be treated as sworn statements.

Article 3. It is the duty of the State to prevent the abuse of narcotics, psychotropic substances and all other products capable of causing physical or psychological dependence, to ensure the prompt identification, treatment, education, aftercare, rehabilitation and social reintegration of affected persons and to furnish the necessary economic resources for bringing about the recovery of drug addicts and persons directly or indirectly affected by drug use with a view to educating them, providing them with physical and psychological rehabilitation treatment and achieving their social reintegration.

Treatment shall be the responsibility of the Ministry of Health, the Costa Rican Social Security Fund, the Alcoholism and Drug Dependence Institute and any other entity or institution legally authorized by the State. For the treatment of minors, the National Foundation for Child Care (PANI) shall specify which of the necessary protective measures provided for in the Code relating to Children and Adolescents are to be taken.

In all cases, the Alcoholism and Drug Dependence Institute shall be responsible for providing technical guidance and for supervision in the areas of prevention

and treatment and for proposing, designing and evaluating programmes for the prevention of drug abuse.

Article 4. It shall be the duty of all persons to cooperate in the prevention and suppression of offences and the unlawful use of drugs and other substances referred to in this Law and also of offences connected with the laundering of money derived from serious crimes. The State shall be obliged to provide safeguards and guarantees for the protection of persons who afford cooperation; witness protection programmes shall be the responsibility of the Ministry of Public Safety.

Article 5. Preventive action aimed at halting the cultivation, production and possession of, trafficking in and the abuse of drugs and other products referred to in this Law shall be coordinated by the Costa Rican Drug Institute. With regard to prevention and assistance, the Alcoholism and Drug Dependence Institute shall be consulted on technical matters.

Article 6. All mass communication media shall make available each week, free of charge, to the Costa Rican Drug Institute up to one quarter per cent (0.25%) of their total print space or air time to be used for educational and guidance campaigns aimed at combating the production of, trafficking in and abuse and unlawful consumption of drugs capable of causing dependence, without prejudice to the print space or air time that they may allocate to other public health campaigns. Such print space and air time shall not be cumulative or assignable or transferable to third parties, with the sole exception of the Alcoholism and Drug Dependence Institute, and may be replaced by campaigns conducted by the media themselves, subject to authorization from the Costa Rican Drug Institute given after technical consultations with the Alcoholism and Drug Dependence Institute. For annual income tax calculation purposes, the cost of print space or air time granted for the purposes stated in this article shall be regarded as a donation to the State.

The print space or air time allocated shall be on pages or at times or during programmes with the largest readership or audience belonging to the population segment that is being targeted.

## Part II

### **Procedural aspects**

#### **Chapter I**

#### **Duties of the State**

Article 7. It shall be the duty of the State to promote international technical and economic cooperation through its competent bodies and by all available means, with a view to strengthening investigative, prevention, law enforcement and rehabilitation programmes connected with drugs, narcotics and psychotropic or other substances referred to in this law, and to conclude bilateral and multilateral treaties with a view to improving the effectiveness of such international cooperation and to strengthening extradition mechanisms.

Article 8. In order to facilitate police or judicial investigations or proceedings in connection with offences established under this law, the national authorities may afford cooperation to and receive cooperation from foreign authorities for the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Furnishing certified copies of judicial or police documents;
- (c) Executing searches and seizures and taking related safe-keeping measures;
- (d) Examining objects and sites;
- (e) Providing duly certified evidentiary items and information;
- (f) Supplying authentic copies of relevant documents and records, including bank, financial and business records;
- (g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes;
- (h) Furnishing all statements in the case of a controlled delivery operation;
- (i) Taking other measures provided for in the Vienna Convention and in any other international instrument adopted by Costa Rica.

## **Chapter II**

### **Controlled delivery**

Article 9. The Department of Public Prosecution shall authorize and supervise controlled delivery operations, which involves allowing unlawful or suspect shipments of products or substances referred to in this Law and also of money and valuables derived from serious crimes to enter, circulate within, cross or leave the national territory with a view to identifying persons involved in the commission of offences provided for herein; it shall subsequently inform the competent judge thereof.

The authorities of the country undertaking the controlled delivery operation shall as quickly as possible provide the head of the Department of Public Prosecution with information relating to the steps taken by them concerning the goods forming the subject of the operation and to the subsequent judicial steps.

Once proceedings have been initiated, the Costa Rican judicial authorities may authorize the use of controlled delivery. They may also request any foreign authorities conducting proceedings in connection with which a controlled delivery operation is being undertaken to provide all statements relating to the proceedings, which may be used in the Costa Rican proceedings.

Subject to the consent of the interested parties, unlawful consignments whose controlled delivery has been agreed upon may be intercepted or allowed to continue intact, or the narcotics or psychotropic substances which they contain may be replaced in whole or in part.

## **Chapter III**

### **Undercover police officers and collaborators**

Article 10. In any investigations conducted in connection with offences established under this Law, the police and judicial authorities may organize

infiltration by undercover officers with a view to establishing the commission of the offences.

Article 11. In its investigations, the police may make use of collaborators or informants, in which case it shall keep their identity secret in order to guarantee their safety. Should any of them be present at the time of commission of the unlawful act, the competent judicial authority shall be informed of that fact without their identities being revealed. Except where declarations by them are considered essential at some stage of the proceedings, the court shall order that they appear but may, during the questioning for purposes of identification, omit any particulars that could give rise to risk for them or their families. Their evidence may be automatically included in the record of the plenary court proceedings through the reading out of a written statement, unless viva voce testimony is deemed essential, in which case their evidence shall be given before just the court, the public prosecutor, the accused and the accuser's defence counsel; for such purpose, orders shall be given for the courtroom to be temporarily cleared. The same procedure shall be followed if the person giving evidence is a foreign police officer who has been involved in the case under police assistance arrangements.

Article 12. Undercover police officers or police collaborators, whether Costa Rican or foreign, who take part in an undercover police operation shall hand over to the Department of Public Prosecution for confiscation any money, valuables or goods received by them from perpetrators of unlawful acts as a reward for their apparent collaboration in the offence. The public prosecutor shall record the hand-over and place the money, valuables or goods at the disposal of the Costa Rican Drug Institute, except in duly substantiated exceptional cases.

Article 13. Public prosecutors may propose to perpetrators of, accomplices in and accessories to offences covered by this Law that, in cases where a conviction is being sought against them, they request that consideration be given to granting them a suspended sentence or a reduction by up to one half of the penalties stipulated for offences provided for in this Law or to pronouncing a conditional sentence, where applicable, if they voluntarily provide information that may contribute significantly to resolving drug-trafficking offences. The Department of Public Prosecution may offer the aforementioned benefits until the preliminary hearing begins.

#### **Chapter IV**

##### **Financial institutions and activities**

Article 14. Entities regulated, supervised or controlled, as appropriate, by the following bodies shall be considered entities subject to the obligations established under this Law:

- (a) The General Supervisory Authority for Financial Institutions (SUGEF);
- (b) The General Securities Supervisory Authority (SUGEVAL);
- (c) The Pensions Supervisory Authority (SUPEN).

In addition, the obligations established under this Law shall apply to all firms and other entities belonging to financial groups supervised by the aforementioned bodies, including financial transactions that banks or financial institutions domiciled abroad conduct through a financial institution domiciled in Costa Rica. Entities belonging to such financial groups need not comply again with the obligation to register provided for in Article 15 below, but they shall be subject to the appropriate body in matters regarding the prevention of money-laundering.

Article 15. Any persons who carry on, inter alia, the following activities shall also be subject to this law:

- (a) Regular or substantial currency exchange transfer and operations using instruments such as cheques, bank drafts and bills of exchange;
- (b) Regular or substantial operations involving the issue, sale, encashment or transfer of travellers' cheques or postal money orders;
- (c) Regular or substantial transfers of funds carried out by any means;
- (d) The administration of trusts or any type of administration of funds by individuals or corporate entities that are not financial intermediaries.

Individuals or corporate entities that carry on activities referred to in the preceding subparagraphs and are not supervised by any of the supervising bodies existing in Costa Rica, shall be required to register with SUGEF, whereby registration shall not be interpreted as meaning that they are licensed to operate; also, they shall be subject to the supervision of SUGEF in matters relating to the prevention of money-laundering as provided for in this Law. Registration shall be approved by the National Council for Supervision of the Financial System, subject to an affirmative report from SUGEF, once the applicable legal and regulatory provisions have been complied with. Costa Rican municipal authorities shall not issue new licences or renew existing ones for such activities if the aforementioned registration requirement has not been met. SUGEF, SUGIVAL or SUPEN, as appropriate, shall ensure that individuals and corporate entities that, wherever they have their legal domicile or operate and on whatever basis, habitually engage without authorization in activities such as those referred to in this article do not operate within Costa Rican territory. If, in the opinion of the supervising official, there are reasons to believe that an individual or a corporate entity is engaging in any of the activities referred to in this article, the supervisory body shall have, with regard to the suspected offenders, the same powers of search as it has, under this Law, with regard to institutions subject to the provisions of this part of this Law in matters relating to the prevention of money-laundering.

## **Chapter V**

### **Customer identification and record-keeping**

Article 16. With a view to preventing operations involving the concealment and movement of money of suspicious origin and other operations carried out with the aim of laundering money derived from serious crimes, institutions that are

subject to the provisions of this chapter shall comply with the following requirements:

(a) To obtain and preserve information concerning the true identity of persons for whose benefit an account is being opened or a transaction is being carried out if doubts exist as to whether such customers are acting for their own benefit, particularly in the case of corporate entities which are not conducting commercial, financial or industrial operations in the country where they have their headquarters or domicile;

(b) To maintain named accounts. Anonymous accounts, numbered accounts and accounts appearing under fictitious or false names may not be held;

(c) To record and verify, by reliable means, the identity, representational function, domicile, legal capacity, occupation or corporate objective of persons and other identification particulars concerning them, whether those persons be regular or occasional customers. Such verification shall be carried out by means of identity documents, passports, birth certificates, driving licences, articles of incorporation and association or any other documents, whether official or private. It shall be carried out especially when business relations are being established, particularly when new accounts are being opened, deposit books are being provided, fiduciary transactions are being conducted, safe-deposit boxes are being rented or cash transactions in excess of ten thousand United States dollars (US\$ 10,000) or the equivalent in other foreign currencies are being executed;

(d) To maintain throughout the course of an operation, and for at least five years following completion of the transaction, records of the information and documentation required under this article;

(e) To maintain for a minimum period of five years records of their customers' identity, books of account, commercial correspondence and financial operations so as to enable a transaction to be reconstructed or concluded.

## **Chapter VI**

### **Availability of records**

Article 17. Financial institutions shall immediately comply with requests for information addressed to them by judges of the Republic concerning particulars and documentation required for investigations and proceedings relating to offences established under this Law.

Article 18. Financial institutions may not disclose to any person, except in the case of another court or of the bodies referred to in Article 14, the fact that information has been requested from or furnished to another court or authority vested with supervisory and oversight powers.

Article 19. In accordance with the law, the competent authorities may in the course of an investigation share the information with and provide it to the competent local authorities or the competent authorities of other States.

## **Chapter VII**

### **Recording and reporting of transactions**

Article 20. Every financial institution shall record, on a form designed by the competent supervisory and oversight body, each incoming or outgoing cash transaction, in local or foreign currency, equal to or exceeding ten thousand United States dollars (US\$ 10,000) or the equivalent in colones.

The transactions referred to in the preceding paragraph shall include transfers into or out of Costa Rica.

Article 21. The forms referred to in the preceding article shall contain at least the following particulars in respect of each transaction:

- (a) The identity, signature, date of birth and address of the person physically carrying out the transaction. In addition, a photocopy of an identity document must be provided. Corporate entities must furnish, for their legal representatives or resident agents, the same information as that required in the case of persons;
- (b) The identity and address of the person on whose behalf the transaction is being carried out;
- (c) The identity and address of the beneficiary or addressee of the transaction, if any;
- (d) The identity of the accounts affected by the transaction, if any;
- (e) The type of transaction concerned;
- (f) The identity of the financial institution which conducted the transaction;
- (g) The date, time and amount of the transaction;
- (h) The origin of the transaction;
- (i) The identification of the official arranging the transaction.

Article 22. As from the date when each transaction is conducted, the financial institution shall maintain an accurate and complete record of the supporting documents and communications transmitted electronically or by whatever other means and shall preserve them for a period of five years after completion of the transaction.

The information in question shall be made available immediately to the appropriate supervisory body.

Article 23. Multiple cash transactions, both in local and in foreign currency, that together equal or exceed ten thousand United States dollars (US\$ 10,000) or the equivalent in other foreign currencies shall be regarded as single transactions if they are carried out by a specific person or for that person's benefit in the course of a single day or over such other period as may be specified by the competent supervisory and oversight body. In such event, if the financial institution, its employees, officials or agents are aware of such transactions, they shall maintain the record referred to in the preceding article.

It shall be left to the discretion of the financial institution to maintain such a record even in the case of operations not involving cash.

## **Chapter VIII**

### **Reporting of suspicious financial transactions**

Article 24. Entities subject to the provisions of this chapter shall pay special attention to suspicious transactions such as ones not conforming to normal

transaction patterns and ones that are not significant but regular, with no evident economic or legal basis. The provisions set forth here shall be applicable to supervisory and oversight bodies.

Article 25. If it is suspected that transactions described in the preceding article constitute or are connected with unlawful activities, including transactions arising out of transfers into or out of Costa Rica, financial institutions shall immediately report such fact confidentially to the relevant supervisory and oversight body, which shall refer the matter immediately to the Financial Analysis Unit.

### **Chapter IX**

#### **Compulsory programmes to be implemented by financial institutions**

Article 26. Institutions subject to the provisions of this part of this Law shall, in compliance with the regulations and under the supervision referred to in it, adopt, develop and implement programmes, rules, procedures and internal controls for the prevention and detection of offences established under this Law. Such programmes shall include at a minimum:

- (a) The establishment of procedures to ensure a high standard of personal integrity of the proprietors, senior management, administrative staff and employees of financial institutions and a system for evaluating personal, employment and financial particulars;
- (b) Ongoing staff training and educational programmes concerning the responsibilities established under this Law.

Article 27. Financial institutions shall appoint officials with responsibility for ensuring compliance with internal procedures and programmes, including the keeping of appropriate records and the reporting of suspicious transactions. Such officials shall liaise with the competent authorities. The general management or administration of the financial institution concerned shall provide suitable communication channels to enable those officials to perform their duties. It shall also supervise the work of the staff responsible for discharging such duties.

### **Chapter X**

#### **Obligations of the competent authorities**

Article 28. In accordance with the law, the bodies vested with supervisory and oversight powers shall have, inter alia, the following obligations:

- (a) Ensuring effective compliance with the record-keeping and reporting obligations established under this Law;
- (b) Issuing instructions and determining the content of the forms for recording and reporting the operations referred to in Article 20 of this Law, with a view to submitting recommendations that will assist financial institutions in detecting suspicious patterns in the conduct of their customers. These guidelines shall take into account modern and safe techniques for the handling of assets and shall serve as an educational tool for the personnel of financial institutions;

(c) Cooperating with the competent authorities and providing them with technical assistance in connection with investigations and proceedings relating to offences established under this Law.

Article 29. The Costa Rican Drug Institute and bodies vested with supervisory and oversight powers over institutions subject to this Law shall promptly communicate to the Department of Public Prosecution any information received from financial institutions concerning suspicious transactions or activities that may be connected with offences referred to in this Law.

Article 30. The Costa Rican Drug Institute and bodies vested with supervisory and oversight powers over institutions subject to the provisions of this Law may cooperate closely with the competent authorities of other States in investigations, prosecutions and proceedings concerning offences established under this Law or related offences and infringements of administrative financial laws or regulations.

Article 31. Entities of the national financial system shall endeavour to conclude international cooperation agreements available to them that will guarantee the free transfer of data relating to accounts opened in other States and connected with investigations, prosecutions and proceedings concerning offences established under this Law or related offences and infringements of administrative financial laws or regulations.

Article 32. The statutory provisions relating to bank, stock exchange or tax secrecy shall not constitute an obstacle to compliance with the provisions of this Law if the judicial or administrative authorities entrusted with investigations of the offences established under this Law request information.

## **Chapter XI**

### **Preventive measures and precautionary arrangements concerning property, proceeds and instrumentalities**

Article 33. When an offence relating to the laundering of money is being investigated, the Department of Public Prosecution shall request the competent court or authority, at any time and without any prior notification or hearing, to issue a seizure or attachment order or to take some other precautionary measure aimed at preserving the availability of related property, proceeds or instrumentalities with a view to possible confiscation.

Such arrangements shall include the freezing of deposits under investigation at national or foreign institutions as referred to in Articles 14 and 15 of this Law, in compliance with the relevant statutory provisions.

Article 34. Judges may also order that the documentation or evidentiary items which institutions referred to in Articles 14 and 15 of this Law have in their possession be handed over to them if required for an investigation. The decision in question shall duly substantiate the need for the furnishing of the report or evidentiary item.

Article 35. Upon entering or leaving the country, all nationals and foreigners shall be required to display and declare cash carried by them if the amount is equal to or exceeds ten thousand United States dollars (US\$ 10,000) or the equivalent in other currency; they shall also declare securities carried by them in an amount equal to or exceeding fifty thousand United States dollars (US\$ 50,000) or the equivalent in other currency. In making declarations, they shall use the official forms designed for that purpose, which shall be made available to them by the General Customs Directorate at entry and exit points. Officials of the General Customs Directorate shall verify, on the basis of a passport or another identification document, the veracity of the personal data entered on the form. The statement shall be made as a sworn declaration, and the forms shall be sent to the Costa Rican Drug Institute for appropriate analysis.

### Part III

## **Control and oversight of precursors and essential chemicals**

### **Chapter I**

#### **Scope of application**

Article 36. The rules contained in this part of this Law govern the production, manufacture, industrial processing, preparation, refining, conversion, extraction, dilution, import, export, re-export and distribution of, trade in and transport, analysis, packaging or storage of substances that may be used as precursors or essential chemicals in the processing of drugs of illicit use, be they narcotic or psychotropic substances, inhalants or other products capable of causing dependence, in accordance with Article 1 of this Law.

For the purposes of this Law, □precursors□ shall be taken to mean the substances or products that are included in Table I of and the annexes to the 1988 Convention or that may be included in the future; similarly, □essential chemicals□ shall be taken to mean those substances or products which are or may be included in Table II of and the annexes to the 1988 Convention and those which form part of the official schedules issued by the Costa Rican Drug Institute.

The rules shall also govern the import, marketing and manufacture of machines and accessories used for producing narcotics, psychotropic substances, or other substances having similar effects, in tablet, capsule or pill form.

Article 37. Precursors and other chemical substances shall be identified by the names and the digital classification which appear in the Customs Cooperation Council Nomenclature (CCCN) and in the Harmonized Commodity Description and Coding System (HS). These classification systems shall also be used in statistical records and documents relating to the import, export, transit and trans-shipment of precursors and substances, to other customs operations and to the use of free ports and free trade zones.

### **Chapter II**

#### **Licensing and registration**

Article 38. For the purpose of making known the nature and scope of the activities conducted by them, individuals and corporate entities engaged in any of the activities listed in Article 36 of this Law shall:

(a) Make their establishments subject to control, inspection and oversight by the Costa Rican Drug Institute whenever that body so stipulates;

(b) Register their establishments with that body and state the nature of the business and the activities carried on and also the name and qualifications of the individual legally responsible and also of the professional pharmacist if the enterprise is legally required to use the services of such a person.

Article 39. Wholesale distributors and manufacturers of substances subject to the provisions of this part of this Law shall furnish samples of each of the products which they handle or manufacture to the Costa Rican Drug Institute and the Forensic Sciences Department of the Judicial Inquiry Agency whenever requested to do so; together with the samples, they shall send the corresponding technical particulars with an exact description of the methodology for chemical analysis. National laboratories or industries which produce or supply products containing precursors or essential chemicals shall be subject to the same obligation.

Article 40. The Costa Rican Drug Institute and the Ministry of Finance, acting through the General Customs Directorate, shall be responsible for undertaking, in a coordinated manner, the monitoring of the import, export, re-export and international transit of the substances referred to in this part of this Law.

In addition, the Precursor Control and Oversight Unit of the Costa Rican Drug Institute shall monitor the use of those substances within the national territory. To that end, both the Institute and the General Customs Directorate shall be entitled to take samples and subject them to analysis regardless of the type of transaction or operation being conducted.

### **Chapter III**

#### **Import and export requirements**

Article 41. The import of controlled substances such as precursors or essential chemicals and the import of machines and accessories as described in Article 36 of this Law shall be subject to prior authorization from a specialized unit within the Costa Rican Drug Institute.

Article 42. Any individual or corporate entity engaging in the import, export, re-export, distribution, selling and production of goods and services in which precursors or essential chemicals are used as raw materials or inputs shall register with the Costa Rican Drug Institute in accordance with subparagraph (b) of Article 38 of this Law.

For the purposes of registration, it shall be necessary to:

(a) Complete the registration application form, which shall be regarded as a sworn statement, specifying:

1. The substances to be imported, manufactured, used, sold or distributed by the firm;

2. The estimated amount to be imported annually, for each substance;
3. The chemical or generic name of each substance or product and the brand name if any;
4. The use to which each substance will be put and, in cases of manufacture, the products in which the precursor or essential chemical will be used, the respective proportions and the public health registration numbers assigned to the products by the competent authorities (Ministry of Health, Ministry of Agriculture and Stockbreeding, etc.);
5. The manufacturer or normal supplier of each substance;
6. The name of the professional pharmacist who will be the individual legally responsible;

(b) Present the following:

1. An authenticated photocopy of a valid operating licence issued by a public health authority for an activity that calls for the use of the precursors that the individual or corporate entity intends to handle;
2. A photocopy of the legal certification of the firm or of the identity document of the individual applying for registration;
3. Evidence of inscription of the firm in the Mercantile Register;
4. A document showing the corporate status of the enterprise (original document);
5. The revenue stamps for certifying the registration;

(c) Complete the form for registering the signature of the legal representative of the firm.

The application so submitted shall be ruled upon within a maximum of five working days.

Article 43. Every month, or before the authorization of further import, firms importing the controlled substances referred to in this chapter shall provide the following to the Costa Rican Drug Institute:

- (a) An up-to-date inventory of precursors and essential chemicals, on the form which the specialized unit within the Costa Rican Drug Institute provides for that purpose;
- (b) Details of items manufactured and the quantities of the substances used;
- (c) Details of sales, together with copies of invoices giving the name and exact address of the buyer, the products purchased and the quantities;
- (d) Details of exports or re-exports, to which must be attached copies of the export or re-export certificates.

Article 44. In order to withdraw precursors and controlled chemical substances from storage, the interested parties shall submit the following documents to the specialized unit within the Costa Rican Drug Institute:

- (a) The import authorization application, on the form to be drawn up for such purpose by the specialized unit within the Institute, on which shall be indicated the registration number assigned in accordance with Article 42 of this Law;

(b) The original or a certified copy of the purchase invoice for the substances to be withdrawn from storage;

(c) The original or a certified copy of the bill of lading, air waybill or consignment note, as applicable.

The specialized unit within the Institute shall rule on the application within one working day from the time when it receives the documentation indicated above.

Article 45. The specialized unit within the Costa Rican Drug Institute shall keep a detailed record of authorizations, licences or similar documents that are granted, denied or revoked and of all information relating thereto; moreover, it shall periodically inspect the reported activities at registered establishments. For such purpose, it shall establish a corps of specialized inspectors. In addition, it may receive the assistance of the police entrusted with the control of unauthorized drugs and related activities, to whom it shall hand over the investigation of any irregular situations which it discovers and which may be connected with any of the offences established under this Law.

Article 46. Import permits shall lapse 180 days following their issue, while export and re-export permits shall expire 90 days following their authorization.

All such permits shall be used once only and shall cover only one invoice, which may relate to several of the substances, machines or other items provided for in these regulations.

Article 47. Persons covered under the regulations of this chapter shall keep, as applicable, records of stocks, production, manufacture, acquisition and distribution of substances, machines and accessories, in accordance with the procedures set out in this chapter.

Article 48. Persons engaged in any of the activities referred to in Article 36 of this Law shall keep a complete, reliable and up-to-date inventory of the substances, machines or accessories referred to in this chapter. In addition, they shall maintain records with, at a minimum, the following information:

- (a) Amount received from other persons or firms;
- (b) Amount produced, manufactured or prepared;
- (c) Amount imported;
- (d) Amount used to manufacture or prepare other products;
- (e) Amount distributed domestically;
- (f) Amount exported or re-exported;
- (g) Amount in stock;
- (h) Amount lost through accidents, evaporation, pilferage and the like.

Article 49. The record of transactions referred to in subparagraphs (a), (c), (e) and (f) of the preceding article shall contain, at a minimum, the following information:

- (a) Date of the transaction;
- (b) Name, address and licence or registration number of each party to the transaction and of the final consignee if not one of the parties to the transaction;

(c) Generic and brand name, quantity and form of presentation of the precursor or other chemical;

(d) Brand name, model and serial number of machines and accessories;

(e) Means of transport and identification of the transport company.

Article 50. Persons engaged in any of the activities referred to in Article 36 of this Law shall immediately report to the specialized unit within the Costa Rican Drug Institute any completed or proposed transactions to which they are parties whenever they have reasonable grounds to suspect that the substances, machines or accessories involved are possibly being used in the illicit production, manufacture, extraction or preparation of narcotics, psychotropic substances or other substances having similar effects.

Article 51. It shall be deemed that reasonable grounds as envisaged in the preceding article exist particularly in cases where the traded quantity of the substances, machines or accessories referred to in Article 36 of this Law, the method of payment or the personal characteristics of the purchaser are unusual or are inconsistent with the information provided beforehand by the specialized unit within the Costa Rican Drug Institute.

Article 52. They shall also inform the specialized unit within the Costa Rican Drug Institute of any losses or irregular or excessive disappearances of any substances, machines or accessories under their control.

Article 53. The report referred to in Article 50 of this Law shall contain all available information and shall be submitted to the specialized unit within the Costa Rican Drug Institute as soon as the circumstances warranting the suspicion are known, by the quickest means and as far in advance of the completion of the transaction as possible.

Article 54. Once the information has been verified, the specialized unit within the Costa Rican Drug Institute shall communicate it to the competent authorities of the country of origin, destination or transit as soon as possible and provide them with all available particulars.

Article 55. The preceding articles of this chapter shall apply also in cases of customs transit and trans-shipment, in which the officials of the National Customs Service of the Ministry of Finance, as those responsible for control of the transactions in question, shall also be required to inform the specialized unit within the Costa Rican Drug Institute of any irregular situation detected.

Article 56. The legal representative of the Costa Rican Oil Refinery (*Refinadora Costarricense de Petr leo*) shall each month send to the Directorate General of the Costa Rican Drug Institute a report on the production of jet fuel and aviation gasoline, stating the quantity sold and its purchaser.

## Part IV

### **Offences and remedial measures**

#### **Chapter I**

#### **Offences**

Article 57. On all matters not expressly regulated in this part of this Law, criminal law and criminal procedural law shall apply on a supplementary basis. However, when trying a specific case, the judge shall always apply the provisions and principles of the Penal Code.

Article 58. A penalty of imprisonment from eight to fifteen years shall be imposed on any person who without legal authority distributes, deals in, supplies, manufactures, processes, refines, converts, extracts, prepares, cultivates, produces, transports, stores or sells drugs, substances or products referred to in this Law or cultivates the plants from which such substances or products are obtained.

The same penalty shall be imposed on any person who without due authority possesses such drugs, substances or products for any of the above-mentioned purposes and on any person who possesses or trades in seeds capable of germination or other natural products for the production of the aforesaid drugs.

Article 59. Any person who constructs or makes available airstrips or mooring sites for use in the transport of money or property derived from trafficking in drugs or other substances referred to in this Law shall be liable to a penalty of imprisonment from three to eight years.

Article 60. Any person who in any way intimidates or dissuades another person with a view to preventing denunciation, testimony, investigation, the institution or conduct of criminal proceedings or prosecution in connection with criminal activities described in this Law shall be liable to a penalty of imprisonment from four to eight years.

Article 61. A penalty of imprisonment from three to ten years shall be imposed on any person who, by a promise of financial reward, tries to persuade a public official to enable persons under investigation or indicted in connection with or convicted of any of the offences established under this Law to evade punishment or to escape.

The same penalty shall be imposed on any person who alters, conceals, removes or causes the disappearance of traces, evidence or instrumentalities of such offences or takes into safe keeping the proceeds or revenues from such acts.

Article 62. A penalty of imprisonment from three to ten years and disqualification from holding public office for the same period shall be imposed on any public servant or official who, by whatever means, enables persons under investigation or indicted in connection with or convicted of any of the offences established under this Law to evade punishment or to escape.

The penalty shall be imprisonment from eight to twenty years if the acts referred to in the preceding paragraph are committed by a judge or public prosecutor of the Republic.

If the aforementioned acts occur as a result of negligence on the part of the official or employee, a penalty of imprisonment from six months to three years shall be imposed under the circumstances envisaged in the first paragraph of this article and from two to five years under those envisaged in the second

paragraph, with disqualification from holding public office for the same period in both cases.

Article 63. A penalty of imprisonment from three to eight years and disqualification from holding public office for up to five years shall be imposed on any public servant or any private individual employed on the stock market who, being entrusted with confidential information concerning drug trafficking or investigations of money-laundering, authorizes or carries out the destruction or removal of that information without complying with the statutory requirements.

Article 64. A penalty of imprisonment from two to five years shall be imposed on any person possessing legal authority who dispenses or supplies controlled substances referred to in this Law without a medical prescription or in excess of the quantities stated on the prescription. In addition to this penalty, he shall be disqualified from pursuing his trade or occupation for four to eight years.

Article 65. Unless they are liable to a more severe penalty, imprisonment from six months to three years and disqualification from pursuing their occupation for up to two years shall be imposed on the following persons:

- (a) Medical practitioners who, being authorized to prescribe substances or products referred to in this Law, prescribe them without complying with the formalities specified in Article 2 and in other relevant laws and regulations;
- (b) The pharmacists, the veterinarians and the professional technical managers to whom this Law applies if:

1. They do not keep due records controlling the movements of narcotics and psychotropic substances or products referred to in this Law;
2. They do not submit to the health authority the relevant documentation to improve controls on the trade in and supply and use of narcotics and psychotropic substances or products referred to in this Law;
3. They allow unauthorized personnel to store, handle or prescribe narcotics or psychotropic products whose use is declared to be restricted.

Article 66. A penalty of imprisonment from one to six years shall be imposed on managers or employees of establishments open to the public who allow persons to meet the premises for the purpose of consuming drugs or products regulated by this Law.

It shall be possible also to order the cancellation of the licence, permit or authorization to carry on the activity in the performance of which the offence was committed or to order the temporary or permanent closure of the business, establishment or firm through which the offence was committed.

Article 67. A penalty of imprisonment from three to eight years shall be imposed on any person who, directly or through an intermediary, influences a public servant or public authority by taking advantage of the exercise of the powers conferred by his post or of any other situation arising out of his personal or hierarchical relationship with that individual or with another public official or authority, whether actual or fictitious, for the purpose of securing licences, permits or administrative arrangements that may facilitate the commission of

offences established under this Law in order to gain directly or indirectly therefrom an undue advantage or economic benefit for himself or for another.

Article 68. Any person who furnishes, receives or uses money or any other financial proceeds from illicit trafficking in drugs or from money-laundering for the purpose of financing party political or electoral activities shall be liable to a penalty of imprisonment from five to fifteen years.

Article 69. A penalty of imprisonment from eight to twenty years shall be imposed on:

(a) Any person who acquires, converts or transmits financial proceeds knowing that they derive from a serious crime or commits any other act in order to conceal or disguise their unlawful origin or to help any person who participated in the offences in question to evade the legal consequences of his actions;

(b) Any person who conceals or disguises the true nature, the origin, the whereabouts, the disposition and the movement of, the rights with respect to and the ownership of financial proceeds knowing that they derive, directly or indirectly, from a serious crime.

The penalty shall be imprisonment from ten to twenty years if the financial proceeds derive from an offence connected with illicit trafficking in narcotics and psychotropic substances, money-laundering or the diversion of precursors or essential chemicals or from related offences.

Article 70. A penalty of imprisonment from one to three years shall be imposed on an owner, director, administrator or employee of financial entities or on a representative or employee of any supervisory and oversight body who, through negligence in the performance of his duties, as assessed by the courts, facilitates the commission of a money-laundering offence.

Article 71. A penalty of imprisonment from three months to one year shall be imposed on any person who engages in any of the activities referred to in Article 36 of this Law and does not immediately inform the specialized unit within the Costa Rican Drug Institute of the transactions conducted or proposed in which he is involved if he has reasonable grounds to believe that the substances, machines and accessories in question are possibly being used in the illegal production, manufacture, extraction or preparation of narcotics, psychotropic substances or other substances with similar effects.

Article 72. The offences established under this Law may be investigated, tried or adjudicated by the competent court or authority irrespective of whether the illicit trafficking offence, the related offences or the money-laundering offences occurred in another territorial jurisdiction, without prejudice to extradition, where applicable in accordance with the law.

Article 73. A sentence of imprisonment from eight to fifteen years shall be imposed on any person who produces, manufactures, prepares, distributes, transports, stores, imports or exports precursors or other chemicals covered under these regulations and also machines or accessories for the purpose of using them in the commission of any of the offences established under this Law.

The penalty shall be from eight to twenty years□ imprisonment if the offence is committed through the establishment or use of a criminal organization.

Article 74. A penalty of imprisonment from one to three years shall be imposed on any person who:

- (a) Uses lawfully obtained permits or licences to import quantities exceeding those authorized of precursors or other chemicals covered under these regulations or machines or accessories other than those allowed under the authorizations. The same penalty shall be imposed on any person who falsifies the permits or licences;
- (b) Possesses, without authority, precursors, chemicals, solvents or other substances that may be used for processing drugs or their derivatives referred to in this Law;
- (c) Alters or changes the labels on controlled products in order to pass them off as other products with the aim of diverting them to illicit activities or evading controls.

Article 75. A penalty of imprisonment from three to eight years shall be imposed on any person who diverts chemicals such as precursors or machines or accessories for uses or purposes other than those authorized within and outside Costa Rica.

Article 76. Any person who fulfils the requirements set out in Article 42 of this Law but supplies false information shall be liable to a penalty of imprisonment of up to six months.

Article 77. The penalty of imprisonment shall be from eight to twenty years if in the conduct described above any of the following circumstances involving either the perpetrator or an accomplice is present in connection with the aforementioned offences:

- (a) Toxic drugs, narcotics or psychotropic substances are supplied to persons under eighteen years of age, to mentally handicapped persons or to pregnant women;
- (b) Toxic drugs, narcotics or psychotropic substances are brought into or distributed at educational, cultural, sports or recreational centres, penal institutions or places where public entertainments are held;
- (c) Under-age, legally incapable or drug-dependent persons are used for the commission of the offence;
- (d) The father, mother, guardian or person responsible for the care and upbringing of the person affected is the perpetrator of the offence;
- (e) A person taking advantage of his role as a teacher, educator or spiritual guide of the affected person or of his position of superiority clearly restricts the freedom of the victim;
- (f) Three or more persons organize themselves as a group to commit the offence;
- (g) The offences are committed on an international scale;
- (h) A person takes advantage of his holding public office.

These penalties shall also apply to any person who finances or manages an organization formed for the purpose of committing the offences.

If the person responsible for the act is an employee of a public or private educational institution, the sentence shall include disqualification for six to twelve years from teaching at any level in the public or private education system. The governors or directors of educational centres shall be responsible for ensuring compliance with this provision.

Article 78. In cases covered by chapter I of part IV of this Law, the judge may also order, as an additional penalty:

- (a) The cancellation of the licence, permits, concession or authorization for carrying out the activity in the performance of which the offence was committed;
- (b) The temporary or permanent closure of the firm or activity in the conduct of which the offence was committed.

## **Chapter II**

### **Remedial measures**

Article 79. The voluntary, cost-free residential or non-residential treatment at a public or private health centre, exclusively for therapeutic and rehabilitation purposes, of persons who consume or use drugs of unauthorized use in public thoroughfares or other public places shall be promoted and facilitated; the purpose of this provision is to detoxify addicts and free them from their addiction. In the case of persons under full age, the authorities shall be obliged to report such situations to the National Foundation for Child Care (PANI) in order that it may take the necessary protective measures in accordance with the Code relating to Children and Adolescents and with Article 3 of this Law.

In the case of persons under full age consuming drugs of unauthorized use on private premises, PANI shall, ex officio or on request, intervene and take the necessary protective measures, in accordance with the powers granted to it in the Code relating to Children and Adolescents.

## **Chapter III**

### **Administrative penalties**

Article 80. Financial institutions shall be responsible for acts of their employees, officials, directors, owners and other authorized representatives who, when acting as such, participate in the commission of any of the offences established under this Law. Such liability shall be established and penalized in accordance with the rules and procedures previously laid down in the legislation regulating them.

Article 81. Institutions referred to in Articles 14 and 15 of this Law may be penalized, after a warning, by the competent control and oversight body as follows:

- (a) By a fine of nought point nought five per cent (0.05%) of their assets if:
  1. They do not record, on the form designed by the competent control and oversight body, each receipt from cash transactions in national or foreign currency exceeding ten thousand United States dollars (US\$ 10,000) or the

equivalent in colones and, similarly, do not record transactions involving cash outgoings in foreign currency to amounts in excess of ten thousand United States dollars (US\$ 10,000);

2. In the case of multiple cash transactions as referred to in Article 23 of this Law, they do not record them on the form designed by the competent control and oversight body;

3. They do not comply with the deadlines set by the competent control and oversight body for submission of the form referred to in subparagraph 1 above;

4. They do not comply with the provisions relating to customer identification set forth in Article 16 of this Law;

5. They refuse to furnish legally authorized bodies with necessary information and documentation on suspect operations as provided for in Article 17 of this Law or furnish unauthorized persons with information in contravention of Article 18 of this Law;

(b) By a fine of nought point one per cent (0.1%) of their assets if:

1. The entities referred to in Article 15 of this Law refuse to register with SUGEF;

2. They have not implemented the procedures for tracing, monitoring and reporting on suspect or unusual financial transactions as provided for in Articles 24 and 25 of this Law;

3. They do not adopt, develop or implement programmes, rules, procedures or internal controls for preventing offences established under this Law; they do not appoint officials entrusted with ensuring compliance with such controls, programmes and procedures.

The fines referred to in this article shall be paid within eight working days from the time when they become effective. If the fine is not paid within the established period, a delay surcharge of three per cent (3%) shall be added each month to the original amount, which fact shall be made known by the appropriate higher body.

The money derived from fines shall be used for the preventive activities referred to in Article 5 of this Law.

Article 82. Individuals or corporate entities performing any of the acts listed in Article 36 of this Law shall be liable to the following administrative sanctions:

(a) Temporary removal from the register referred to in Article 42 of this Law in the event of the discovery of irregular situations that may be connected with one of the offences established under it and that warrant the handing over of the investigation to the police responsible for the control of unauthorized drugs and related activities;

(b) Permanent removal from the register referred to in Article 42 if it is proven that any of the offences established under this Law was committed by employees, officials, directors, owners or other persons acting as authorized representatives of the registered individual or corporate entity;

(c) Administrative confiscation, to the benefit of the Costa Rican Drug Institute, of imported, locally purchased, produced, recycled and other precursors or essential chemicals if the requirements established by this Law and other laws and regulations applying in this area have not been complied with.

## Part V

### **Seizure and attachment of property used as an instrumentality or derived from offences provided for under this Law**

#### **Chapter I**

##### **Seizure**

Article 83. All movable and immovable property, vehicles, instruments, equipment, assets, money and other objects used in the commission of offences provided for under this Law, as well as property or assets derived from such acts shall be seized by way of precaution, by the competent authority hearing the case; the same shall apply in respect of shareholdings, capital investments and property of corporate entities involved in such acts.

Interested third parties that comply with the provisions of Article 94 of this Law, shall have three months, from the date of the notifications referred to in Articles 84 and 90 of this Law, to claim seized property and objects; within that time limit they shall meet the necessary legal requirements, for each case, without prejudice to the provisions of the preceding articles.

Article 84. If any of the measures referred to in the preceding article is ordered, the property shall be immediately placed in judicial deposit exclusively at the disposal of the Costa Rican Drug Institute. Once safe keeping arrangements have been made for the value of the property in order to guarantee any possible indemnification for damage or destruction, the Costa Rican Drug Institute shall immediately assign the property exclusively for the purpose of fulfilling the aims described in this Law, except in highly justified cases approved by the Board of Directors; it may also administer the property or hand it over in trust to a bank of the State, as befits its interests. In the case of property registered with the National Registry, the authority hearing the case shall immediately order that the relevant entry be made and shall notify the Costa Rican Drug Institute. Income from the administration or trust shall be used for the achievement of the aims of the Institute.

If it is not possible to proceed in accordance with the second paragraph of Article 90 of this Law, the Institute shall publish a notice in the official gazette, indicating the objects, merchandise and other property in its possession. If the time limit established in the preceding article has expired and the interested parties have not taken the necessary action, provided that a court decision exists, the seized property and objects of value shall become the permanent property of the Institute and shall be used for the aims set forth in this Law.

Article 85. The judicial authority shall deposit seized cash in the current account of the Costa Rican Drug Institute and immediately furnish it with a copy of the deposit made. Of the interest obtained, the Institute shall allocate:

(a) Sixty per cent (60%) for the implementation of preventive programmes; at least half of this amount shall be used for the consumption prevention, treatment and rehabilitation programmes carried out by the Alcoholism and Drug Dependence Institute;

(b) Thirty per cent (30%) shall be assigned for law enforcement programmes;

(c) Ten per cent (10%) shall be assigned for the safe keeping and maintenance of seized property to be assigned as specified in the preceding article.

Article 86. If an investigation is initiated by the competent authorities as a result of the commission of any of the illicit acts covered by this Law, every financial entity or entity that forms part of a financial group, shall have the obligation to protect any information, documents, assets and money that may be used as evidence or proof in the investigation or in judicial proceedings; the said financial entity shall freeze the money or assets that are deposited or held in safe keeping or shall deposit them in the Central Bank of Costa Rica and inform the authorities of the measures taken. The foregoing obligations shall commence from the moment that the entities receive formal notification from the authorities indicating that an investigation or criminal proceedings have begun, or instructing the entities to file the appropriate report.

Such measures shall not entail, either for the entities or the officials who implement them, any administrative, civil, criminal or other liability, provided that they have acted in good faith.

## **Chapter II**

### **Attachment**

Article 87. If, in a final ruling, confiscation of movable or immovable property, cash or assets as referred to in the preceding articles is ordered in favour of the Costa Rican Drug Institute, the latter may retain such assets for the fulfilment of its aims, donate them to public welfare entities, in priority to organizations whose object is drug abuse prevention or control, or sell them at auction. In the case of cash assets or the proceeds from auctioned property, the Costa Rican Drug Institute shall allocate:

(a) Sixty per cent (60%) for the implementation of preventive programmes; at least half of this amount shall be allocated to the consumption prevention, treatment and rehabilitation programmes carried out by the Alcoholism and Drug Dependence Institute;

(b) Thirty per cent (30%) shall be assigned for enforcement programmes;

(c) Ten per cent (10%) shall be assigned for the safe keeping and maintenance of confiscated property.

Article 88. Perishable goods may be sold by the Institute before the final ruling is handed down in the respective criminal proceedings, in accordance with the regulations of the Institute; for such purpose, an expert appraisal shall be conducted by the competent office of the Ministry of Finance. The proceeds obtained shall be disposed of in accordance with the provisions of the preceding article.

Article 89. In the case of confiscated property subject to registration with the National Registry, an order from the competent judicial authority shall be sufficient for the relevant section of the Registry to carry out the registration or the transfer of the property in favour of the Costa Rican Drug Institute. As soon as the ruling is final, the competent authority shall transmit the registration or transfer order, to which the respective security voucher shall be attached, and shall be exempt from the payment of any of the property transfer taxes provided for under Law No. 7088, as well as from the payment of stamp duty and transfer or registration fees. In such cases, the respective note issued by the Department of Exemptions of the Ministry of Finance shall not be required.

Article 90. If, one year after the confiscation of the property, it has not been possible to establish the identity of the perpetrator or participant in the offence, or if the latter has abandoned property of economic interest, the elements and means of transport used, the competent authority shall order the permanent confiscation of such property, which shall become the property of the Institute for the aims set forth under this Law.

Similarly, when more than three months have elapsed following the completion or closure of criminal proceedings and no one has claimed a legitimate legal interest in the property of economic interest used in the commission of the offences provided for under this Law, or has taken any action to collect them, the interested party shall no longer be entitled to file claims, and the Institute shall dispose of the property, subject to authorization from the court that heard the case. For this purpose, the provisions of Article 89 of this Law shall apply.

Article 91. In cases where the competent judicial authority orders, in a final ruling, the confiscation of property which, by its nature, is subject to registration or transfer in the National Registry and is in a state of deterioration that makes its repair or improvement impossible or excessively burdensome, the Institute may allocate such property for the purposes described in this Law, without any need for its registration or transfer in the National Registry. The assessment of the condition of the property shall be made by the Valuation Department of the Ministry of Finance.

Article 92. Any individual or corporate entity whose authorization, permit, concession or licence has been cancelled may not be granted personally or by third parties, whether individuals or corporate entities, any permits, concessions or licences for a period of ten years following cancellation.

### **Chapter III**

#### **Bona fide third parties**

Article 93. The measures and penalties referred to in the articles preceding this chapter shall apply without prejudice to the rights of bona fide third parties.

In accordance with the law, notification of the possibility of appearing in the proceedings in order to assert their rights shall be communicated to any persons

who can claim a legitimate legal interest in the property, proceeds or instrumentalities.

Article 94. The competent authority or court shall order the return of the property, proceeds or instrumentalities to the claimant if it is established and concluded that:

- (a) The claimant has a legitimate interest in the property, proceeds or instrumentalities;
- (b) The claimant cannot be charged with the commission of or any involvement in an offence of trafficking or related offences forming the subject of the proceedings;
- (c) The claimant was, without any negligence being involved, unaware of the unlawful use of the property, proceeds or instrumentalities or, if aware, did not voluntarily agree to their unlawful use;
- (d) The claimant did not acquire entitlement to the property, proceeds or instrumentalities of the person on trial in circumstances that reasonably allow the conclusion that entitlement thereto would have been transferred to him for the purpose of avoiding possible seizure and confiscation;
- (e) The claimant took all reasonable steps to prevent the unlawful use of the property, proceeds or instrumentalities.

## Part VI

### **Destruction of illegal plantations and drugs**

#### **Single chapter**

Article 95. Members of the Judicial Inquiry Agency of the Drug Control Police shall be authorized to conduct investigations and destroy plantations of marijuana or any other plants from which drugs can be produced, unless those functions are carried out by local authorities when there are reasons that prevent the former from engaging in such activity.

Prior to destruction, sufficient samples of the plants shall be taken for the relevant assessments, in accordance with the recommendations issued by the Forensic Sciences Department of the Judicial Inquiry Agency. Cultivated sites shall be identified by their boundaries and the approximate area of the plantation. The names and other personal particulars of the owner or possessor of the land and of persons present at the time of execution of the measure shall be noted. Such details and any other information of relevance for investigative purposes shall be recorded in a certification, which shall be subject to the requirements of criminal procedural law. A copy of the certification of destruction and of the police reports shall be sent to the Institute, by the police body that carried out the destruction of the plantation, for the appropriate purposes.

Article 96. In cases where the police authorities seize marijuana, cocaine, heroin or any other drug referred to in this Law, they shall immediately place it at the disposal of the competent judicial authority in order that the Forensic Sciences Department of the Judicial Inquiry Agency may take samples as regards quantity

and weight and any other aspects useful to the investigation, in accordance with their expert opinion.

On completion of the foregoing, the competent judicial authority may order the destruction of the seized drug. If destruction is not ordered, the drug shall be handed over to the Judicial Inquiry Agency for safe keeping and subsequent destruction.

Once the case has been permanently closed, the competent judicial authority shall order the destruction of the sample of the analysed substance that served as evidence.

Article 97. With a view to carrying out the necessary assessments, the competent judicial authority shall authorize the taking of a sample in accordance with the procedures and in the quantities recommended by the Forensic Sciences Department of the Judicial Inquiry Agency, where it shall be kept for the purposes specified in the preceding article. The remainder of the seized drug shall be destroyed publicly in the presence of any of the media that may wish to attend, subject to prior notification, and by at least one member of the Ministry of Health and of the Judicial Inquiry Agency, such measure being undertaken in accordance with appropriate technical procedures as laid down by the competent body of the Ministry of Health.

The competent judicial authority shall declare by any communication medium the place, the date and time of the act of destruction and shall personally intervene in the destruction of the drug.

A copy of the destruction certification shall be sent by the competent judicial authority to the Costa Rican Drug Institute.

## Part VII

### **Costa Rican Drug Institute**

#### **Chapter I**

##### **General provisions**

Article 98. The Costa Rican Drug Institute shall be a fully decentralized body attached to the Ministry of the Presidency. It shall have legal capacity to carry out contractual activity and to administer its resources and assets.

Article 99. The Costa Rican Drug Institute shall be responsible for coordinating, formulating and implementing policies, plans and strategies to prevent the consumption of drugs and treat and rehabilitate drug-dependent persons and reintegrate them into society, and policies, plans and strategies to combat illicit drug trafficking, the laundering of the proceeds of drug trafficking, related activities and serious offences.

The Institute shall cooperate with the Alcoholism and Drug Dependence Institute, as the technical governing agency in the area of consumption prevention and treatment, the Costa Rican Social Security Fund, the Department of Public Prosecution and the Judicial Inquiry Agency, in the formulation and implementation of policies, plans and strategies in the areas of prevention,

consumption, treatment, rehabilitation and social reintegration in the field of drugs.

The Institute shall coordinate with the Ministry of Health, the Ministry of Agriculture and Stockbreeding and the relevant professional corporations, the implementation and formulation of policies, plans and strategies relating to control and oversight of licit drugs.

Article 100. The Costa Rican Drug Institute shall formulate the National Drug Plan and coordinate policies to prevent the consumption of drugs and treat and rehabilitate drug-dependent persons and reintegrate them into society, as well as policies to prevent such offences as the use, possession, marketing and illicit trafficking in drugs, narcotics, psychotropic substances, inhalants, drugs and medicines capable of causing physical or psychological dependence, precursors and controlled chemical substances, in accordance with the international conventions that have been signed and ratified by Costa Rica and in accordance with any other legal instrument that is adopted in this field and those included in the official lists that are published periodically in *La Gaceta*.

In the area of consumption prevention, treatment, rehabilitation and reintegration, the Alcoholism and Drug Dependence Institute shall be responsible for coordinating and approving all public and private programmes for such purposes.

In order to carry out the aforementioned tasks, the Institute shall have, inter alia, the following functions:

- (a) To propose, direct, promote, coordinate and oversee the preparation and implementation of the National Drug Plan;
- (b) To maintain relations with various public or private administrations, as well as with national and international experts who carry out activities in the context of the National Drug Plan, and to provide them with the necessary technical support;
- (c) To formulate, programme, coordinate and support plans to combat the following:
  1. Consumption and illicit trafficking of drugs, with a view to carrying out concerted and effective measures;
  2. Laundering of the proceeds of the criminal activity of drug trafficking and other serious offences;
  3. Diversion of precursors and essential chemicals to the criminal activity of drug trafficking;
- (d) To direct the drug information system to compile, process, analyse and publish official reports on all national data and statistics;
- (e) To participate in meetings of the relevant international organizations and take part in the implementation of agreements resulting from such meetings, particularly agreements relating to the prevention of drug dependence and the suppression of drug trafficking and related activities, providing overall coordination among institutions active in those fields, without prejudice to the

recognized competence of such institutions, or to the unity of State representation and action abroad, which is the function of the Ministry of External Relations Affairs and Worship;

- (f) To finance programmes and projects and provide any other form of assistance to public or private organizations engaged in prevention activities in general and the control and oversight of licit and illicit drugs, in coordination with the governing institutions involved in such activities;
- (g) To promote the professionalization and training of Institute staff and public and private officials of the organizations involved in the National Drug Plan;
- (h) To support police activity in the field of drugs;
- (i) To coordinate and support, on an ongoing basis, studies or research on the consumption and trafficking of drugs, related activities and relevant legislation with a view to formulating strategies and recommendations, without prejudice to the competence of the Alcoholism and Drug Dependence Institute;
- (j) To coordinate and support public and private campaigns to prevent the consumption and illicit trafficking of drugs, duly approved by the competent institutions involved and consulted for that purpose;
- (k) To sign agreements and promote agreements on cooperation and exchange of information in areas within its competence, with institutions and related national and international organizations;
- (l) To prepare an annual national report on the situation with respect to prevention and control of licit and illicit drugs, precursors and related activities in the country;
- (m) Any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

Article 101. The Institute may not furnish any information that would be in breach of the confidentiality of investigations relating to the crimes of drug trafficking and money-laundering, or of restricted information, or which would unnecessarily infringe upon the rights of the person.

Article 102. The entities, bodies or persons of particular importance for the fulfilment of the aims of the Institute, shall be obliged to cooperate in the manner determined by the latter, in accordance with available technical, human and material resources.

Article 103. Within the scope of its competence, the Institute may conclude agreements with foreign authorities on the conduct of individual or joint research, subject to the provisions of the legislation of each country.

Article 104. The Institute shall advise institutions involved in the matters covered by this Law and shall provide the technical cooperation that such institutions require to carry out their constitutional functions.

## **Chapter II**

### **Organization**

Article 105. The Institute shall be made up of the following bodies:

- (a) Board of Directors;

- (b) Directorate-General;
- (c) National Drug Statistics and Information Unit;
- (d) Prevention Projects Unit;
- (e) Intelligence Programmes Unit;
- (f) Precursor Control and Oversight Unit;
- (g) Records and Consultation Unit;
- (h) Informatics Unit;
- (i) Unit for Administration of Seized and Attached Property;
- (j) Financial Analysis Unit;
- (k) Administrative Unit;
- (l) Internal Audit Unit;
- (m) Legal Advice Unit.

To these shall be added any bodies that, for reasons relating to its competence, the Institute may consider necessary to establish.

Article 106. In addition to the bodies referred to in the preceding article, the following shall serve as advisory bodies of the Institute: the Advisory Committee on Preventive Policies, the Precursor Control and Oversight Committee, the Advisory Committee on Enforcement Policies and the Advisory Committee on the Prevention and Control of Money-Laundering. For all these purposes, it shall be understood that the said committees shall carry out their work on an honorary basis.

The Board of Directors, in accordance with the criteria of timeliness and appropriateness, may establish new committees or alter their membership by including representatives of entities or bodies that it deems relevant.

## **Section I**

### **Board of Directors**

Article 107. The Board of Directors shall be the supreme decision-making body. Its Chairman shall be the Minister or the Vice-Minister of the Presidency of the Republic, who shall be the judicial and extrajudicial representative of the Institute, with the powers that Article 1253 of the Civil Code establishes for the general representatives, and who shall perform the functions expressly assigned to him by the Board of Directors in special cases.

The Board of Directors shall have the following functions:

- (a) To exercise the functions and powers conferred upon it by this Law;
- (b) To ensure the fulfilment of the aims of the Institute;
- (c) To approve, amend or reject the regular and extraordinary budgets of the Institute, in accordance with the Organic Law on the Office of the Comptroller-General of the Republic;
- (d) To approve the annual report and the financial statements of the Institute;
- (e) To resolve matters that are submitted to it for its consideration by the Chairman, the Director-General, other administrators and the auditor;

- (f) To hear appeals against decisions of the Directorate-General, in matters that fall within its competence and declare that the administrative channel has been exhausted;
- (g) To issue, reform and interpret the internal regulations of the Institute which, in order to have effect, must be published in *La Gaceta*;
- (h) To establish any administrative structure that it considers necessary for the efficient performance of the Institute;
- (i) To authorize the acquisition, encumbrment, or disposal of property;
- (j) To prepare any draft acts that it considers necessary for the better and more rapid achievement of the objectives set forth in this Law;
- (k) To grant general judicial authority to the Executive Board with the relevant scope and functions accorded to it by Article 1288 and following articles of the Civil Code;
- (l) To prepare cooperation agreements with national and international judicial and administrative authorities;
- (m) To consider, approve and take final decisions on recruitment and the administration of its resources and assets;
- (n) To perform any other function that may be established by this Law and its regulatory provisions.

Article 108. The Board of Directors shall be made up of the following members:

- (a) The Minister or Vice-Minister of the Presidency;
- (b) The Minister or Vice-Minister of Public Safety and the Interior;
- (c) The Minister or Vice-Minister of Public Education;
- (d) The Minister or Vice-Minister of Justice and Pardons;
- (e) The Minister or Vice-Minister of Health or the Director of the Alcoholism and Drug Dependence Institute;
- (f) The Director or Deputy Director of the Judicial Inquiry Agency;
- (g) The Attorney-General or the Deputy Attorney-General of the State.

## **Section II**

### **Directorate-General**

Article 109. The Directorate-General shall be a subordinate body of the Board of Directors; it shall be headed by a director-general and a deputy director-general, who shall be the highest officials responsible for the management and administration of the Institute. They shall cooperate directly with the Board of Directors in the planning, organization and management of the Institute, and in the ratification, execution and monitoring of its policies. He shall also perform the tasks conferred on him by the regulations and shall institute judicial proceedings to defend the rights of the Institute, when the Board of Directors so determines.

Article 110. In cases of temporary or permanent absence, the Director-General shall be replaced by the Deputy Director-General until a new Director-General is appointed.

Article 111. In order to be appointed, the Director-General and the Deputy Director-General shall be adults, Costa Ricans, of recognized integrity, and hold the academic degree *of licenciado* (university graduate) and possess broad and proven experience in the field of drugs.

The Board of Directors shall appoint a special committee to examine the applications submitted by candidates for the post and shall inform the Board of Directors of its recommendation.

Article 112. The Board of Directors shall have the right to appoint or remove the Director-General and the Deputy Director-General.

Article 113. The functions and duties of the Directorate-General shall be the following:

- (a) To ensure the enforcement of the laws, regulations and resolutions of the Board of Directors;
- (b) To inform the Board of Directors of matters of interest to the Institute and propose any agreements that it may deem appropriate;
- (c) To perform the functions resulting from its status as Directorate-General, organize all its units and ensure their adequate operation;
- (d) Provide the Board of Directors with regular, accurate and complete information necessary for good governance and the higher management of the Institute;
- (e) Submit to the Board of Directors draft regular and extraordinary budgets for the respective fiscal period, as well as amendments relating thereto and, once the budgets are approved, ensure their proper implementation;
- (f) Appoint, remove or take disciplinary measures against employees of the Institute, in accordance with the respective regulations. For the appointment or removal of auditors, the consent of the Auditor-General shall be required;
- (g) To manage the Institute's relations with Government representatives, units and institutions and other national or foreign entities;
- (h) To perform any other functions or exercise any other authority conferred upon it by this Law and the regulations of the Institute;
- (i) Any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

Article 114. The Director-General and the Deputy Director-General shall be forbidden:

- (a) To exercise professions outside their official position, except in strictly personal matters or in matters concerning their spouses, relatives in ascending or descending lines or other relatives within the third degree of consanguinity;
- (b) To perform other paid or honorary public functions, since they are required to perform their functions full time in the Institute. Teaching shall not be subject to this prohibition;
- (c) To participate in electoral activities of a political nature except as permitted by law.

The violation of any of these prohibitions shall constitute a serious offence by the official and shall result in his or her dismissal for just cause.

### **Section III**

#### **Prevention Projects Unit**

Article 115. The Prevention Projects Unit shall be responsible for coordinating, with the Alcoholism and Drug Dependence Institute, the implementation of programmes carried out by public and private entities with a view to promoting education and preventing illicit drug trafficking and related offences covered by this Law. The Unit shall also propose measures for the effective implementation of the prevention plans contained in the National Drug Plan; its technical and administrative structure shall be subject to regulations.

Article 116. The functions of the Prevention Projects Unit, without prejudice to any other functions that may be established in future, shall be the following:

- (a) To formulate recommendations on education about drugs and prevention of the use, possession and marketing of drugs, as well as licit trade and illicit traffic in the drugs referred to in this Law; such recommendations will be included in the National Drug Plan, based on the programmes proposed by public and private entities;
- (b) To engage in technical cooperation with official organizations that carry out campaigns to prevent the use, possession, marketing and licit trade and illicit traffic in the drugs referred to in this Law, and to propose recommendations;
- (c) To support the activities of State and private entities involved in education, prevention and scientific investigation relating to dependence-causing drugs;
- (d) Any other functions that in future may be considered necessary for the fulfilment of the aims of the Institution.

### **Section IV**

#### **National Drug Statistics and Information Unit**

Article 117. The National Drug Statistics and Information Unit shall have the function of carrying out ongoing and updated systematic studies of the scope, tendencies and development of the drug phenomenon in the country, with a view to planning, assessing and supporting the decision-making process in the area of enforcement and prevention in this field, as well as following up such studies.

In order to achieve its purposes and objectives, the Unit shall obtain the necessary information and cooperation from all institutions involved and from other entities in the public and private sectors, in order to facilitate the performance of its functions.

The technical and administrative structure of the Unit shall be subject to regulations.

Article 118. The functions of the National Drug Statistics and Information Unit shall be:

- (a) To develop and implement a national system that centralizes the various reports, studies and research on the extent and consequences of the supply of and demand for drugs, at the national and international levels;
- (b) To determine the general and specific problems that emerge from reports, studies or research, which permit the authorities to take appropriate decisions for on-site investigations and the development of appropriate strategies;
- (c) To issue technical recommendations for strategy formulation within the framework of official drug policy;
- (d) To determine the real annual needs for the licit use of narcotic drugs, psychotropic substances and chemical precursors in the country in order to ensure the availability of such products and prevent their possible diversion for illicit purposes, with the participation of the Narcotic Drug Monitoring Board of the Ministry of Health and the Ministry of Agriculture and Stockbreeding;
- (e) To participate in the exchange of available official information on drugs with national and international organizations, including the United Nations International Drug Control Programme (UNDCP), the International Narcotics Control Board (INCB), the Inter-American Drug Abuse Control Commission of the Organization of American States (CICAD/OAS) and others;
- (f) To provide guidance, based on scientific studies and other contributions of the Unit, in the development of projects and research on the drug problem with a view to updating knowledge in this area;
- (g) To promote national and international coordination and cooperation of all bodies involved in the study of the drug problem with a view to identifying tendencies and preferences in the abuse of specific drugs and recommending concrete action to address the problem;
- (h) To identify criminal patterns in the illicit use of narcotics and psychotropic and chemical substances, which make it possible to deal effectively with the problem;
- (i) To support the Alcoholism and Drug Dependence Institute and cooperate with it in identifying the geographical areas at greatest risk, vulnerable populations and the principal trends in drug consumption, during a fixed period, in order to take the necessary measures to solve the problem;
- (j) To assess measures to reduce the supply of and demand for drugs in the country with a view to determining their impact;
- (k) To support the Alcoholism and Drug Dependence Institute and cooperate with it in the preparation and publication of periodic reports on the current drug situation in the country, its implications and short- and medium-term trends;
- (l) To participate actively in national and international forums, congresses, seminars and workshops on the repression, prevention and oversight of drugs and their analysis and identification, which enable the Unit to become familiar with agreements adopted in that area and to follow them up;

- (m) To coordinate local workshops, seminars and other meetings to formulate, study, discuss and examine proposals that facilitate the optimum functioning of the Unit and provide it with feedback;
- (n) To conduct an exhaustive and ongoing revision of current drug legislation with a view to proposing the adoption of relevant programmes, measures and reforms in order to enhance the effectiveness of State action in this field;
- (o) To determine the annual information needs for planning the collection of data and statistical analyses relating to the drug phenomenon, together with concerned institutions;
- (p) Offer technical advice to all operational units of the Institute with a view to strengthening and supplementing the criteria for analysing drug-related information;
- (q) To perform any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

Article 119. The primary sources of data collection for the Unit shall be, inter alia: the Ministry of Health, the Ministry of Agriculture and Stockbreeding, the Alcoholism and Drug Dependence Institute, the Ministry of Justice and Pardons, the Ministry of Public Safety and the Interior, the Ministry of Finance, the Ministry of Public Education, the Ministry of Public Works and Transport, the Ministry of External Relations and Worship, the Costa Rican Social Security Fund, non-governmental organizations, the National Statistics and Census Institute, the National Health System of the public and private sectors, public and private universities, vocational schools, the oral and written media and others which, owing to their nature, may be included in this activity.

## **Section V**

### **Intelligence Programmes Unit**

Article 120. The Intelligence Programmes Unit shall be responsible for coordinating, with national and international police units, measures to combat illicit drug trafficking. It shall provide tactical and strategic information to the various bodies and institutions involved in measures to combat drugs, with a view to enabling them to achieve their objective and recommending measures and policies. The Unit shall also collect and analyse information relating to this field and compile a fully confidential database for exclusive use by the police and judicial authorities; it shall also establish technical advisory committees specialized in the investigation of the offences covered by this Law.

The technical and administrative structure of the Intelligence Programmes Unit shall be subject to regulations.

## **Section VI**

### **Records and Consultation Unit**

Article 121. The Records and Consultation Unit shall draw up and keep a fully confidential record of information which, owing to its nature, is useful to investigations carried out by the police and the Department of Public Prosecution.

Subject to the constitutional and legal provisos relating to the performance of its tasks, the Unit shall have access to files containing the names and addresses of subscribers to the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*), to the criminal records of the Judicial Inquiry Agency, to the employee/employer files of the Costa Rican Social Security Fund and to any source or system of information, document, instrument, account or declaration of any public or private institution.

The information obtained shall be for the exclusive use of the police and the Department of Public Prosecution, which shall consult it under the supervision of the chief of the Unit, who shall note the full name of the person consulting the information, the time and date of the consultation and the reason therefor. In order to ensure that information is kept up to date, police who carry out investigations of drug trafficking offences shall send the police report to the Institute immediately after submitting it to the Department of Public Prosecution for the respective preliminary investigation.

The technical and administrative structure of the Records and Consultation Unit shall be subject to regulations.

Article 122. The Records and Consultation Unit shall have the following functions:

- (a) To identify the information needs of users and deal with their requests in accordance with established procedure;
- (b) To ensure quality control during the entire process of collecting and processing information in order to ensure the reliability of the data;
- (c) To administer the information technology resources allocated to the Unit in coordination with the Informatics Unit;
- (d) To perform any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

## **Section VII**

### **Financial Analysis Unit**

Article 123. The Financial Analysis Unit shall request, compile and analyse records, forms and reports of suspicious transactions received from monitoring bodies and the institutions referred to in Articles 14 and 15 of this Law, with a view to centralizing and analysing such information in order to investigate money-laundering activities. Such information shall be brought to the notice of the Directorate-General, which shall communicate it to the Department of Public Prosecution for the appropriate purposes.

State organizations and institutions, in particular the Ministry of Finance, the Central Bank of Costa Rica, the Public Registry and public oversight agencies, as well as the entities referred to in Articles 14 and 15 of this Law, shall be obliged to furnish the information required for the investigation of the activities and offences covered by this Law, at the request of the Unit, with the countersignature of the Directorate-General.

The Financial Analysis Unit shall also be responsible for locating and tracing property of economic interest obtained in the crimes defined in this Law. The Department of Public Prosecution shall order financial investigations, which shall be conducted simultaneously with, or subsequent to, the investigation of the relevant offences.

Article 124. The information compiled by the Financial Analysis Unit shall be confidential and be used exclusively for investigations conducted by the Institute. It may also be disclosed to the Department of Public Prosecution, to judges of the Republic, to national and foreign police bodies, to similar financial analysis units and to the administrative and judicial authorities of other countries having competence in the matter. Any officials who fail to comply with this provision shall be subject to the penalties set out in the Penal Code.

Article 125. All public and private ministries and institutions shall furnish, in an expeditious manner, any information or documentation that the Unit may request from them for the fulfilment of its aims. Such information shall be strictly confidential.

Article 126. Compliance with the recommendations proposed by the Unit and endorsed by the Board of Directors of the Institute shall have priority in the public sector and, in particular, in financial or commercial entities, in order to implement policies to combat money-laundering and, consequently, to increase the efficiency of State and private measures in this area.

### **Section VIII**

#### **Precursor Control and Oversight Unit**

Article 127. The Precursor Control and Oversight Unit shall monitor the import, export, re-export and international transit of substances designated as precursors and essential chemicals; it shall also monitor the use of such substances in national territory.

The technical and administrative structure of the Precursor Control and Oversight Unit shall be subject to regulations.

Article 128. The Precursor Control and Oversight Unit shall have the following functions:

(a) To define requirements, register and issue the respective licences to the following persons:

1. Importers of precursors and essential chemicals;
2. Users of precursors and essential chemicals at the national level;
3. Exporters and/or re-exporters of precursors and essential chemicals;

(b) To handle and take decisions on import authorization requests, for each and every shipment of precursors and essential chemicals that enters the country;

(c) To handle and take decisions on export and re-export authorization requests, for each and every shipment of precursors and essential chemicals that leave the country;

(d) To monitor the use of precursors and essential chemicals at the national level;

- (e) To define requirements and handle the renewal of import permits;
- (f) To cooperate in monitoring international trade in precursors and essential chemicals through coordination, cooperation and exchange of information with the competent authorities of other countries and with international organizations involved in combating drugs;
- (g) To maintain updated records of licences that have been granted or revoked, imports, exports or re-exports that have been authorized or denied, as well as any other information relating to the control and oversight of precursors at the national and international levels;
- (h) To submit to INCB annual statistics on precursors and essential chemicals;
- (i) To conduct a periodic review of the standards for the control and oversight of precursors and essential chemicals, with a view to keeping them up to date.
- (j) To coordinate, with the Minister of Finance, monitoring of the precursors and essential chemicals that enter national territory in international transit;
- (k) To notify the Department of Public Prosecution of cases of possible diversion of precursors and essential chemicals in order to enable the Department to take appropriate measures;
- (l) To participate in the drafting, revision and updating of the relevant legislation dealing, directly or indirectly, with control of precursors, and also in the drafting of bilateral or multilateral agreements or conventions on related subjects;
- (m) To participate in technical committees involved in controlling the drug supply;
- (n) To perform any of the functions that in future may be considered necessary for the fulfilment of the aims of the Institution.

## **Section IX**

### **Informatics Unit**

Article 129. The Informatics Unit shall be responsible for promoting the coordination and optimum functioning of the systems and subsystems that make up the institutional information system and the ongoing process of acquiring, validating, selecting, handling, processing and communicating information, based on users' requests and requirements.

The technical and administrative structure of the Informatics Unit shall be subject to regulations.

Article 130. The Informatics Unit shall have the following functions:

- (a) To plan, organize, coordinate, control and assess the development of the institutional information system with a view to modernizing and systematizing its operation;
- (b) To promote and participate in the design, systematization and control of the joint and comprehensive planning of information subsystems at the levels of inter-institutional management with a view to promoting the optimum and sound use of technological resources;
- (c) To provide, in the field of information and computer technology, coordination and guidance and make recommendations with respect to recruitment;

- (d) To coordinate, with the heads of the Institute's units, preparation of the input requirements for conducting the activities of the Institute;
- (e) To design, propose and coordinate the institution of norms, standards, guidelines and procedures relating to hardware, software, technical platform networks and communications, and technologies related to the management of institutional informatics;
- (f) To perform any function that in future may be considered necessary for the fulfilment of the aims of the Institute.

## **Section X**

### **Internal Audit Unit**

Article 131. The Institute shall have an internal audit unit, which shall operate under the direct management and responsibility of an auditor, who shall be an authorized public accountant with broad experience in informatics systems. The Internal Audit Unit shall have the resources necessary for the adequate performance of its functions.

The technical and administrative structure of the Internal Audit Unit shall be subject to regulations.

Article 132. The Internal Audit Unit shall, with respect to its functions and decision-making, be independent of the head of the Institute and the other administrative bodies. Its organization and operation shall be governed by the provisions of the Organic Law on the Office of the Comptroller-General of the Republic, the Internal Audit Manual and any other provisions that may be issued by the auditing body.

Article 133. The auditor shall be appointed by the Board of Directors, by a two-thirds majority vote in favour of the appointment. The auditor shall hold his post for a period of six years and may be re-elected. He shall be subject to the same restrictions that this Law and its regulatory provisions establish for the Directorate-General, where applicable.

Article 134. The auditor shall be suspended or dismissed from his post only for just cause and by a decision taken by the Board of Directors in accordance with the relevant procedure. The same number of votes shall be required for the dismissal of the auditor as was required for his appointment, in accordance with the provisions issued by the Office of the Comptroller-General of the Republic.

Article 135. In addition to conducting routine and special financial audits, the Internal Audit Unit shall have the following functions:

- (a) To control and assess the relevant internal control system and propose corrective measures;
- (b) To comply with technical auditing standards, and with the provisions issued by the Office of the Comptroller-General of the Republic and the legal system;
- (c) To carry out audits or special studies relating to any of the bodies subject to its institutional jurisdiction;
- (d) To provide, within the scope of its competence, advice to the heads of the Institute and also to warn any of the passive bodies under its control of the

possible consequences of certain types of conduct or decisions, when it is aware of such conduct or decisions;

(e) To perform other functions as set out in the regulations of the control and oversight system.

Article 136. In order to perform its functions, the Internal Audit Unit shall have the following powers:

(a) To have free access, at any time, to all books, records, assets and documents, as well as to other sources of information relating to its activity;

(b) To request any official or staff member at any hierarchical level, in the manner, under the conditions and within the time limit that it deems appropriate, to submit any records, data or documents that it may require for the full performance of its purposes;

(c) To request officials and staff members at any hierarchical level, to provide the cooperation, advice and facilities that may be required for the performance of the Internal Audit Unit;

(d) Any other powers necessary for compliance with any regulations or control and oversight manuals that may be issued by the Office of the Comptroller-General of the Republic.

Article 137. The Board of Directors of the Institute shall be responsible for implementing the recommendations issued by the Internal Audit Unit. If the administration disagrees with such recommendations, it shall issue in writing, within 30 working days, a well-founded agreement containing an alternative solution.

If the difference of opinion between the administration and the Internal Audit Unit persists, the Office of the Comptroller-General of the Republic shall resolve the differences at the request of the interested parties.

Article 138. The Board of Directors shall be responsible for establishing, maintaining and improving its internal control systems.

Any regulations that the Board may establish in this regard shall be binding on the administration responsible for implementing and operating the system.

## **Section XI**

### **Unit for the Administration of Seized and Attached Property**

Article 139. The Unit for the Administration of Seized and Attached Property shall monitor attached property of economic interest derived from the offences described in this Law; it shall also ensure the proper administration and use of seized property and shall be responsible for auctioning or donating seized property.

The technical and administrative structure of the Unit for the Administration of Seized and Attached Property shall be subject to regulations.

Article 140. The Unit for the Administration of Seized and Attached Property shall have the following functions:

(a) To ensure the safe keeping of seized or attached property of economic value and to monitor such safe keeping;

- (b) To keep an updated inventory of seized and attached property;
- (c) To keep a record of and monitor property handed over to public entities with a view to ensuring its proper use;
- (d) To submit periodically to the Directorate-General the inventory of attached property in order to carry out the plans relating to delivery, use and administration;
- (e) To request, from the justice agencies dealing with criminal cases involving offences defined in this Law, information on seizures carried out;
- (f) To programme and hold auctions of attached property;
- (g) Any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

## **Section XII**

### **Administrative Unit**

Article 141. The Administrative Unit shall be responsible for ensuring the allocation and efficient use of the Institute's resources, based on guidelines issued by the Board of Directors and the Directorate-General, for the performance of the Unit's functions and execution of its programmes. The technical and administrative structure of the Administrative Unit shall be subject to regulations.

Article 142. The Administrative Unit shall have the following functions:

- (a) To carry out the administrative procedures required to support the operations of the Directorate-General in the areas of accounting, finance, budget, human resources and supplies;
- (b) To coordinate with the Institute's units in order to monitor the use of resources;
- (c) To draft the regular and extraordinary budgets of the Institute so that they can be examined and approved by the Directorate-General;
- (d) To execute budgets approved in accordance with the law;
- (e) To submit to the Directorate-General periodic reports on deposits and current accounts in dollars or colones;
- (f) To organize reception services, secretarial and general services, as well as the services of chauffeurs, warehousemen, custodians, security and monitoring personnel, and storage services for seized and attached property;
- (g) To perform any functions that in future may be considered necessary for the fulfilment of the aims of the Institution.

## **Section XIII**

### **Legal Advice Unit**

Article 143. The Legal Advice Unit shall provide legal advice to all bodies and levels of the Institute with a view to ensuring that the activities of its officials are in accordance with the legal system in force.

The technical and administrative structure of the Legal Advice Unit shall be subject to regulations.

Article 144. The Legal Advice Unit shall have the following functions:

- (a) To support the Institute and provide it with legal assistance in general;
- (b) To transmit enquiries of a legal nature, to the Office of the Attorney-General of the Republic and the Office of the Comptroller-General of the Republic;
- (c) To receive written personal enquiries of a legal nature at the institutional level and to answer them;
- (d) To deal with any transfer of movable and immovable property in which the Institute may be involved;
- (e) To investigate and resolve disciplinary cases against officials of the Institute;
- (f) To coordinate appropriate legal action with the Unit for the Administration of Seized and Attached Property;
- (g) To perform any functions that in future may be considered necessary for the fulfilment of the aims of the Institute.

### **Chapter III Financing**

Article 145. In order to fulfil its purposes, the Institute shall have the following resources:

- (a) The amounts allocated annually in the regular and extraordinary budgets and in amendments thereto;
- (b) Contributions and subsidies from other institutions, individuals or corporate entities, national or foreign, public or private, as well as from special laws;
- (c) The proceeds from any internal or external loans that may be contracted;
- (d) Interest on the financial assets of the Institute;
- (e) Funds and other resources resulting from sales;
- (f) Sums collected in application of this Law;
- (g) Fees collected for the registration of dealers in precursors;
- (h) Seized and attached property, in accordance with the implementation of this Law.

Article 146. The Executive shall make up the difference of the Institute's budgetary requirements; for that purpose, the Institute shall submit, in May of each year, a preliminary draft budget for the following fiscal year, which ensures that it will have the resources necessary to provide efficient service.

Article 147. For each fiscal year, budgets shall be organized and formulated in accordance with the technical regulations and the development plans or, in the absence of which, the general guidelines for national drug policies. When programmes or projects are involved the execution of which extends beyond the aforementioned period, the Institute shall demonstrate, to the satisfaction of the Office of the Comptroller-General of the Republic, that it will have the additional funds required for the completion of the respective programme or project.

Article 148. The budget of the Costa Rican Drug Institute shall be drawn from that of the Ministry of the Presidency.

Article 149. All the assets and resources of the Costa Rican Drug Institute shall be individualized and inventoried in a precise and accurate manner, and shall be allocated exclusively for the fulfilment of the aims of the Institute.

Notwithstanding, the Institute may conclude agreements on technical assistance or loans of equipment and resources with the various police organizations involved in combating drug trafficking, as well as with other units of both the Executive and Judiciary.

Article 150. The assets and resources of the Costa Rican Drug Institute shall not be used for purposes other than those provided for under this Law.

Article 151. Considering the nature of its functions in the area of enforcement, the Costa Rican Drug Institute shall be authorized to allocate a maximum of twenty per cent (20%) of its financial resources for confidential expenditures.

Article 152. For the management of any income that may be obtained through the implementation of this Law, the Costa Rican Drug Institute shall open, in any State bank, two accounts: a general account and a special account for confidential expenditures.

Article 153. The Costa Rican Drug Institute shall, in addition to fulfilling the provisions contained in this chapter, be entitled to establish any procedures that it deems appropriate for the administration, registration and control of funds transferred in accordance with the law.

Article 154. The Costa Rican Drug Institute shall have the right to establish its own organization and service by-laws.

Article 155. The Costa Rican Drug Institute shall not be subject to the following legislation:

(a) Law No. 6821, of 19 October 1982, establishing the Budgetary Authority and its regulatory provisions;

(b) Law No. 6955, of 24 February 1984, on the Financial Equilibrium of the Public Sector.

Article 156. The Director-General and the Deputy Director-General of the Costa Rican Drug Institute shall be subject to the obligation contained in Article 4 of the Law on Illicit Enrichment of Public Servants.

Article 157. The Costa Rican Drug Institute shall have, for official use, its own stamps, means of identification, insignias and emblems.

Article 158. Donations from individuals or corporate entities to any plans and programmes that the Costa Rican Drug Institute may authorize for the suppression of offences and the illicit consumption of substances of unauthorized use, shall be deductible from the calculation of income tax.

Article 159. The Costa Rican Drug Institute shall be exempt from the payment of any kind of taxes, stamp duties or charges or any other form of contribution.

Article 160. The vehicles assigned to and used by the Costa Rican Drug Institute shall be unmarked and authorized not to use official plates in order to maintain the confidentiality of its work and the safety of its staff. The National Registry shall provide the Institute with the necessary assistance in enforcing and ensuring confidentiality.

Article 161. The officials of the Costa Rican Drug Institute shall be strictly forbidden to engage in other remunerated professional activities; in

compensation, they shall be remunerated in accordance with the provisions of Law No. 5867 and its amendments.

Article 162. The Costa Rican Drug Institute may grant certifications, licences and registrations for dealers in precursors and essential chemicals, on payment of the fees duly established by the Board of Directors.

## Part VIII

### **Final and transitional provisions**

#### **Chapter I**

##### **Final provisions**

Article 163. The Executive shall adopt the necessary budgetary measures for the enforcement of this Law.

Article 164. Law No. 7093 and Law No. 7233, as well as any other statutory provisions contained in laws and regulations that run counter to this Law, are hereby repealed.

Article 165. The Executive shall issue regulatory provisions for this Law within three months of its publication.

Article 166. The Costa Rican Social Security Fund shall be authorized to establish special centres to treat drug-dependent persons, within a maximum time limit of four years.

#### **Chapter II**

##### **Transitional provisions**

Officials of the National Drug Prevention Centre, officials of the Joint Drug Intelligence Centre and officials of the Precursors Unit of the Ministry of Health shall form part of the Costa Rican Drug Institute and shall retain their acquired employment rights. Once the Institute begins operations, the Board of Directors shall initiate a process of restructuring professional categories with a view to ensuring that all officials have the same rights.

All the goods, resources, equipment, documents, case records, databases and assets belonging to the National Drug Prevention Centre, the Joint Drug Intelligence Centre and the Precursors Unit of the Ministry of Health shall become the property of the Costa Rican Drug Institute.

Upon the entry into force of this Law, all movable and immovable property, money and other assets and instrumentalities used in the commission of offences provided for in this Law that have been seized, attached or made the subject of any other court ruling shall, in accordance with the provisions of this Law, be assigned in favor of the Costa Rican Drug Institute, including property that has been the subject of a seizure or attachment order following a request for mutual assistance in criminal matters. The judicial authority hearing the case shall order ex officio that the property be handed over and shall direct that the registration be made in the name of that Institute, if applicable.

The provisions contained in this Law on the establishment and operation of the Costa Rican Drug Institute shall enter into force nine months after the publication of this Law. Notwithstanding, the new functions that this Law confers

upon the Financial Analysis Unit shall be performed by the current Financial Analysis Unit of the Joint Drug Intelligence Centre for the nine months following the publication of this Law.

To be valid as from publication hereof.

*To be communicated to the Executive*

Legislative Assembly. San José, this seventeenth day of December, two thousand.

Ovidio Pacheco Salazar, Chairman

Vanessa de Paúl Castro Mora, First Secretary

Everardo Rodríguez Bastos, Second Secretary

Presidency of the Republic. San José, this twenty-seventh day of December, two thousand.

*To be executed and published*

MIGUEL ÁNGEL RODRÍGUEZ ECHEVERRÍA

The Minister of the Interior, Police and Public Safety

Rogelio Ramos Martínez

and the Minister of the Presidency

Danilo Chaverri Soto