



17th St. & Constitution Avenue N.W.
Washington, D.C. 20006
United States of America

Organization of American States

P. 202.458.3000
www.oas.org

INTER-AMERICAN DRUG ABUSE

CONTROL COMMISSION

CICAD

Secretariat for Multidimensional Security

FORTY-NINTH REGULAR SESSION
May 4 - 6, 2011
Paramaribo, Suriname

OEA/Ser.L/XIV.2.49
CICAD/doc.1891/11 – corr. 2
30 June 2011
Original: Spanish

**MODEL LEGISLATION ON SELF-PROPELLED SUBMERSIBLE
AND SEMI-SUBMERSIBLE VESSELS**



17th St. & Constitution Avenue N.W.
Washington, D.C. 20006
United States of America

Organization of American States

P. 202.458.3000
www.oas.org

INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION

CICAD

Secretariat for Multidimensional Security

MODEL LEGISLATION ON SELF-PROPELLED SUBMERSIBLE AND SEMI-SUBMERSIBLE VESSELS

PREAMBLE

The language in this document is non-binding. Its purpose is to provide model language for countries to consider if they decide to draft legislation to counter the threat posed by submersible vessels and semi-submersible vessels without nationality. Any country choosing to use this document should select language from it as may be applicable for their situation and circumstances, and which is consistent with their constitution and laws. A country may choose to use all, some or none of this language as best suits their national needs.

Drug trafficking affects every country in the hemisphere, and has become a global problem. Such is the problem that the majority of countries have for years regarded illegal drugs as a national security issue.

Self-propelled submersible and semisubmersible vessels are watercraft of unorthodox construction capable of putting all or much of their bulk under the surface of the water, making them extremely difficult to detect. These vessels are typically less than 30 meters in length, carry a crew of 4-5, as much as 12 tons of cargo, typically contraband, and can travel at speeds up to 13 knots with a range of more than two thousand kilometers.

The design of these craft enables criminals to easily destroy their illicit cargo upon detection, usually by scuttling the vessel or contraband, thereby preventing their prosecution due to the lack of evidence. This allows individuals who engage in these unlawful activities to repeat the attempt, with the added benefit that these organizations learn from the experience.

The problem that this rising drug-trafficking trend represents for countries of the region is reflected in the amount of personnel, material, funds and equipment each applies, in spite of excellent coordination of all available resources, including intelligence, operations centers, and surface and air units. Criminalizing the construction, operation of and embarkation upon unflagged submersible and semisubmersible vessels improves officer safety, deters the use of these inherently unsafe vessels, and facilitates effective prosecution of those involved in criminal activities.

ARTICLE 1. FINDINGS AND DECLARATIONS

[Parliament/Congress/Legislature/Government of (Country)] finds and declares that constructing, embarking upon, utilizing, or operating a submersible vessel or semi-submersible vessel without nationality is a serious international problem, facilitates transnational crime, including drug trafficking among others, and presents a specific threat to the safety of maritime navigation and the security of (country). This law applies to any type of artifact that is not destined to be used as touristic, scientific, or for any other legal activity.

Definition¹: Applicable to this Law, a submersible vessel or semisubmersible vessel is a vessel capable of moving in the water with or without self-propulsion, and whose characteristics or design allow for total or partial immersion for the purpose of avoiding detection².

ARTICLE 2. OPERATION OF SUBMERSIBLE OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY

- A. Offense: Whoever, without permission from a competent authority, operates or embarks in a submersible vessel or semi-submersible vessel that is without nationality shall be fined [amount], imprisoned from (X months) to (X years), or both. Whoever attempts or conspires to commit any of the acts described in this section shall be fined (amount), imprisoned from (X months) to (X years), or both³;

- B. Aggravating Circumstances: Whoever utilizes a submersible vessel or semi-submersible vessel to store, transport, or sell narcotic substances or consumables required to manufacture narcotic substances shall be fined (amount), imprisoned from (X months) to (X years), or both. The penalty shall be increased by (fill in details) when the illegal actions are facilitated by a public official or anyone who is or has been a member of the security forces.

ARTICLE 3. USAGE, CONSTRUCTION, COMMERCE AND POSSESSION OF SUBMERSIBLE OR SEMI-SUBMERSIBLE VESSEL

- A. Offense: Whoever, without permission from a competent authority, finances, constructs, or purchases a submersible vessel or semi-submersible vessel shall be fined [amount], imprisoned from (X months) to (X years), or both. Whoever attempts or conspires to commit any of the acts described in this section shall be fined (amount), imprisoned from (X months) to (X years), or both;

- B. Aggravating Circumstances: Whomever provides the conditions for usage and operation of a submersible vessel or semi-submersible vessel in an illegal activity shall be fined [amount],

¹ The definitions needed of terms used in the Articles will vary by country; it is important to define any term that is unusual, ambiguous or may be interpreted in different ways.

² In countries where there are potential legitimate uses for the type of vessel that would fall within the definition of a submersible or semi-submersible vessel, such as for artesian or hand fishing, a narrowly defined exception for those legitimate uses may be desired.

³ Penalties should be commensurate with other drug trafficking penalties.

imprisoned from (X months) to (X years), or both.

ARTICLE 4. EXTRATERRITORIAL JURISDICTION (COULD BE APPLIED DEPENDING ON THE LAWS AND CONSTITUTION OF EACH COUNTRY)

There is extraterritorial jurisdiction over an offense under this section, including an attempt or conspiracy to commit such an offense⁴.

ARTICLE 5. CLAIM OF NATIONALITY OR REGISTRY FOR THE VESSEL

A claim of nationality or registry under Articles 2 and 3 includes only:

- A. Possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 91 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS)⁵;
- B. Flying its nation's ensign or flag; or
- C. A verbal claim of nationality or registry by the master or individual in charge of the vessel.

⁴ The scope of the extraterritorial jurisdiction may be limited by international law; however, a broadly defined scope of extraterritorial jurisdiction allows application to the fullest extent permitted under international law.

⁵ For countries that are not party to UNCLOS, substitute article 5 of the 1958 Convention on the High Seas.